Commonwealth of Massachusetts | Department of Revenue

Guide to Filing Your 1992 Massachusetts Income Taxes

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The purpose of this publication is to provide general information about Massachusetts tax laws and Department of Revenue policies and procedures. It is not designed to address all questions in detail. Nothing contained herein supersedes, alters or otherwise changes any provision of the Massachusetts General Laws, Massachusetts Department of Revenue Regulations, Department Rulings or any other sources of the law.

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Massachusetts Tax Change Summary for 1992

This year there are major changes that affect your taxes. These changes are summarized in the following section.

Decrease in the Personal Income Tax

The tax rates were changed for 1992. Income previously taxed at 6.25% (Part B income under Massachusetts law) is now taxed at 5.95%.

Part A income remains taxable at the 12% rate. This means that the two rates in effect for 1992 are 5.95% and 12%. The following chart lists the items in each class of income.

Income Taxed at 5.95%
(Part B Income)

Wages, tips and salaries	Pension and annuity income
Business/profession/trade or farm income	Alimony received
Royalty and REMIC income	Rental income
Partnership and S corporation income	Unemployment compensation
Trust income	Taxable IRA/Keogh distributions
Other income (winnings, fees, etc.)	Massachusetts bank interest

Income Taxed at 12%
(Part A Income)

Capital gains
Dividends
Interest other than from Mass. banks

Interest Rate Change

As a result of new legislation, the interest rate computed on underpayments and overpayments of Massachusetts taxes has changed. Previously, Massachusetts imposed a simple 18% rate on all such transactions. The following is a series of questions and answers designed to provide an overview of the new interest rate provisions.

What is the new Massachusetts interest rate on underpayments and overpayments of state taxes? When does it go into effect?
Starting with interest accruing on or after January 1, 1993, the Massachusetts interest rate will be the federal short-term rate plus 4 percentage points, compounded daily. The federal short-term rate is determined by the Internal Revenue Service (IRS) and can change on a quarterly basis.

How is the federal short-term rate determined, and how will taxpayers know when the Massachusetts interest rate changes?
The federal short-term rate is based on the average yield of outstanding federal obligations with a maturity date of three years or less. The short-term rate for a given calendar quarter is set during the first month of the previous calendar quarter. For example, a rate set in January will take effect in April; a rate set in April will take effect in July, etc. The Taxpayer Advisory Bulletin (TAB) will announce Massachusetts' new interest rate each quarter.

How are the new Massachusetts interest rates different from those imposed by the IRS?
While both are based on the same underlying rate (the federal short-term rate),

the IRS adds 2 percentage points for overpayments and 3 percentage points for underpayments, whereas Massachusetts adds 4 percentage points to the federal short-term rate and uses the same interest rate for both overpayments and underpayments. Daily compounding applies to both federal and Massachusetts interest rates.

How will interest be computed under the new law?
In addition to requiring daily compounding of interest, the new rules require that interest accrue on unpaid penalties as well as on unpaid tax. Thus, the interest computation is based on the daily balances of the amount of actual tax due, the amount of any penalties and the amount of interest that has accrued previously on the tax and penalties. Daily compounding of interest starts on the date that the underlying liability is required to be paid.

When does interest begin accruing on penalties under the new law?
For late filing penalties, interest accrues from the date the return is required to be filed until the penalty is paid.

For late payment penalties and failure-to-pay penalties, interest begins accruing 31 days after the date of the Notice of Assessment until the penalty is paid.

Does the new law affect penalty provisions in any other way?
There are no other changes to penalty provisions under the new law. As under the old provisions, penalties are based only on the tax and not on the tax plus interest. For purposes of determining penalties in monthly increments, it therefore does not matter how much interest has accrued previously on the tax because interest is not included in the penalty computation.

What happens when there is an outstanding liability as of January 1, 1993?
The new interest rate provisions apply to all interest accruing on or after January 1, 1993, regardless of when the underlying liability was incurred. The old interest rate provisions remain in effect for all interest accruing before then. Thus, if a liability is outstanding on December 31, 1992, a "snapshot" of the taxpayer's account will have to be taken as of that date, and all outstanding tax, penalties and interest totaled.Daily compounding based on that total will then begin on January 1, 1993, using the new interest rate.

What interest rate provisions apply when a tax or penalty relating to a period before January 1, 1993 is assessed after January 1, 1993?
The old interest rate provisions apply to all interest accruing before January 1, 1993, even if the underlying liability is not assessed until later. Thus, if a tax or penalty relating to a period before January 1, 1993 is assessed on or after January 1, 1993, interest is determined under the old rules until December 31, 1992. The taxpayer's outstanding tax, interest and penalties are determined as of that date, and daily compounding under the new rate begins on January 1, 1993.

How is interest on overpayments determined, and how does it differ from the computation of interest on underpayments?
The same rates and computational rules apply to interest on both overpayments and underpayments. However, interest on overpayments accrues from the statutory due date, the date of overpayment or the date the return was filed, whichever is latest.

How will the new interest rate apply to quarterly estimated taxes?
If the required estimated tax is not paid, DOR will apply the appropriate quarterly interest rate to the amount of unpaid estimated tax due during the period of underpayment. However, simple interest rates will be used, and daily compounding will not apply.

New Automatic Six-month Extension

Massachusetts now offers taxpayers an automatic six-month extension of time to file their individual income tax returns. The new program replaces the automatic four-month extension program offered previously. Taxpayers requesting an extension for six months (to October 15 in most cases) are now required to file only Form M-4868, Application For Automatic Extension of Time to File Massachusetts Income Tax Return. Form M-4868 includes a perforated voucher to be completed and returned to the Department. Form M-2688, the form previously used to apply for the additional two-month extension, has been eliminated.

The new program also allows taxpayers **who do not expect to owe a tax** to substitute a copy of U.S. Form 4868 in lieu of the Massachusetts form.

Also, remember that your extension will not be valid if you fail to pay at least 80% of your total tax liability through withholding, estimated tax payments or with your Massachusetts Form M-4868. Interest will also be charged on any tax not paid on or before the original due date.

Refund Intercept Program

As part of a Massachusetts initiative to identify unpaid debt to the government, the Department of Revenue is authorized to intercept taxpayer refunds to satisfy unpaid debts of either spouse to the Department of Revenue, the Department of Employment and Training, Child Support Enforcement, Massachusetts Higher Education Assistance Corporation and the Internal Revenue Service. Nondebtor spouses may appeal to the individual agency to have their portion of a refund offset returned to them, however, delays may occur in receiving their portion of the refund.

Massachusetts Income Tax Treatment of Passive Activity Losses

The federal Tax Reform Act of 1986 (TRA '86) added the passive activity loss rules to the Internal Revenue Code for tax years commencing on or after January 1, 1987. Massachusetts adopted these changes for taxable years commencing on or after January 1, 1988.

Federal income tax limitations and phase-out amounts for passive activity loss deductions and rental real estate activities apply for Massachusetts income tax purposes to resident, part-year resident, and nonresident taxpayers. However, because of certain differences between federal and Massachusetts income categories and filing requirements, certain taxpayers may be required to adjust their federal tax amounts to reflect Massachusetts differences.

Calculation of Passive Activity Losses for Massachusetts Purposes

Full-year Residents. The Massachusetts treatment of passive activity losses for Massachusetts residents is the same as the federal treatment. Allowable losses are the same losses that are allowed on federal Form 8582, line 11, to the extent that the losses were not deducted on the taxpayers' Massachusetts returns in prior taxable years. See the section titled "No Carryforward of 1987 Passive Losses." To the extent there are applicable adjustments for Massachusetts differences, taxpayers must calculate allowable losses on a pro forma federal Form 8582. Losses disallowed for federal purposes are likewise disallowed for Massachusetts purposes.

Nonresidents. For nonresidents, passive activity income and losses which are not attributable to Massachusetts must be taken out of the amounts reported for federal purposes. For Massachusetts purposes, a nonresident must recalculate allowed passive activity losses based upon income or losses from passive activities which generate income subject to tax in Massachusetts. To do so, the taxpayer must complete a pro forma federal Form 8582, using only those amounts from activities which generate income subject to Massachusetts tax.

When completing the pro forma federal Form 8582, the taxpayer must limit the amount of the $25,000 allowance for rental real estate activities with active participation to the amount which was allowed the taxpayer for federal purposes. For example, if a taxpayer had federal adjusted gross income in excess of $100,000 which reduced or eliminated the offset allowance under IRC Section 469(i)(3)(A), the taxpayer is limited to the same amount taken on the federal return for Massachusetts purposes.

The following example illustrates how a nonresident calculates passive activity losses for Massachusetts purposes:

Example

During taxable year 1992, Taxpayer Smith, an unmarried full-year nonresident, owned an interest in five passive activities. Taxpayer Smith's federal modified adjusted gross income is below $100,000. He has no prior year unallowed losses.

Activity A is a limited partnership interest which was acquired before October 23, 1986. Smith's distributive share of the net loss for 1992 is $12,000. None of the loss is attributable to Massachusetts.

Activity B is a limited partnership interest that was also acquired before October 23, 1986. Smith's distributive share of the net income for 1992 is $2,000. None of the income is attributable to Massachusetts.

Activity C is a general partnership interest which was acquired before October 23, 1986. The general partnership owns rental real estate located in New York. Smith actively participates in the rental real estate activity. Smith's distributive share of the net loss for 1992 is $10,000, none of which is attributable to Massachusetts.

Activity D is a general partnership interest which was acquired after October 22, 1986. The general partnership owns rental real estate located in Massachusetts. Smith actively participates in the rental real estate activity. Smith's distributive share of the net loss for 1992 is $20,000 for federal and Massachusetts purposes.

Activity E is an active participation rental real estate activity which was acquired before October 23, 1986. It consists of Property A, located in Massachusetts with a loss of $10,000, and Property B, located in Vermont with a gain of $5,000. For federal purposes, Smith's distributive share of the net loss is $5,000. For Massachusetts purposes, Smith's share of the net loss is $10,000.

Under the **federal** rules, Smith would compute the following allowed and disallowed losses:

Activity	Inc./Loss Pre-limit	Loss Disallowed	Inc./Loss Allowed
A	(12,000)	(10,908)	(1,092)*
C	(10,000)	(2,598)	(7,402)*
D	(20,000)	(5,196)	(14,804)*
E	(5,000)	(1,298)	(3,702)*
	(47,000)	(20,000)	(27,000)*

*(From Form 8582 Worksheets)

Only Activities D and E generate income subject to Massachusetts tax. Smith completes pro forma federal Form 8582 with amounts pertaining only to those activities. After the required calculations, the resulting figures are as follows:

Activity	Inc./Loss Before Limit	Loss Disallowed	Allowed Loss
D	(20,000)	(3,333)	(16,667)
E	(10,000)	(1,667)	(8,333)
Total:	(30,000)	(5,000)	(25,000)

Smith has $25,000 in allowable passive activity losses for Massachusetts purposes for 1992.

Part-year Residents. Part-year residents who meet threshold income and exemption requirements of MGL Ch. 62C, sec. 6(a) and who change status during a taxable year from resident to nonresident, or from nonresident to resident, must file two returns. These taxpayers must file Form 1 for the period of the year during which they were residents and Form 1-NR for the period of the year during which they were nonresidents. (MGL Ch. 62C, sec. 6(a); 830 CMR 62.5A.1(7)(d)) Part-year residents must figure passive activity losses separately for their periods of residency and nonresidency.

Assuming that Smith in the example above was a Massachusetts resident for 105 days in tax year 1992, passive activity losses are calculated as follows:

- *Form 1*

  1) Determine the net passive activity income (loss) which a full-year resident would report for federal purposes, with applicable Massachusetts adjustment differences (i.e. \$27,000 allowed passive losses + \$2,000 passive income = \$25,000 total losses).

  2) Multiply this amount by $\frac{\text{number of days as a resident}}{365}$

  $$\text{(i.e. \$25,000} \times \frac{105}{365} = \text{\$7,191.78)}$$

  3) The result is the amount of passive activity loss to which Smith is entitled on Form 1.

- *Form 1-NR*

  1) Determine the amount of passive activity loss deduction as if full-year nonresident (i.e. pro forma federal Form 8582, line 11, recalculation showing only those amounts from activities which generate income subject to Massachusetts tax: i.e. \$25,000).

  2) Subtract the amount taken on Form 1 from this amount (\$25,000 – \$7,191.78 = \$17,808.22).

  3) Multiply this result by $\frac{\text{total Mass. losses}}{\text{total federal losses}}$

  $$\text{(i.e. \$17,808.22} \times \frac{\$30{,}000}{\$47{,}000} = \text{\$11,366.95)}$$

  4) The result is the amount of passive activity loss to which Smith is entitled on Form 1-NR.

Massachusetts Limitation on \$25,000 Offset for Active Participation Rental Real Estate Activities: Married Filing Separately Taxpayers

As an exception to the general rule, IRC Section 469(i) allows qualifying taxpayers who actively participate in certain rental real estate activities to deduct from nonpassive income up to \$25,000 in losses. Under the federal rules, married persons filing joint returns may deduct up to the full amount if they otherwise meet the requirements of IRC Section 469. Under the federal rules, married taxpayers filing separate returns who live apart during the entire taxable year and who otherwise meet the requirements of IRC Section 469 are eligible to deduct up to one-half of the allowable income and phase-out amounts. Under the federal rules, married taxpayers filing separate federal returns who lived together at any time during the taxable year are not entitled to any offset. IRC Section 469(i)(5).

Massachusetts follows the federal rules for applying the \$25,000 offset for rental real estate activities with active participation. Married taxpayers filing joint Massachusetts returns may deduct up to the full amount if they otherwise meet the requirements of IRC Section 469; married taxpayers filing separate Massachusetts returns who lived apart during the entire taxable year and who otherwise meet the requirements of IRC Section 469 are eligible to deduct up to one-half of the allowable income and phase-out amounts; and married taxpayers filing separate Massachusetts returns who lived together at any time during the taxable year are not entitled to the \$25,000 offset. These rules apply even if the taxpayers were allowed to file joint federal returns but were unable to file joint Massachusetts returns because of different Massachusetts filing requirements.

Offsetting Excess Part B Passive Losses Against Part A Income

Under federal law, no distinction in tax rates exists between Part A taxable income (interest, dividends, and capital gains) and Part B taxable income (all other income). For federal purposes, passive losses are simply offset against passive income in order to determine net passive gain or loss.

Generally, Massachusetts income taxpayers may not use excess Part B (5.95%) deductions to offset Part A (12%) income. However, if a taxpayer files a Massachusetts Schedule C or a Massachusetts Schedule E, such offsets are allowed where two requirements are met. First, the excess Part B deductions must be adjusted gross income deductions allowed under MGL Ch. 62, sec. 2(d). Second, these excess deductions may be used to offset only Part A income which is effectively connected with the active conduct of a trade or business, or any Part A income allowed under IRC Section 469(d)(1)(B) to offset losses from passive activities. These rules are illustrated by the following example:

Example

Taxpayer Davis, a full year Massachusetts resident, has a limited partnership interest in Activity A, which was sold in 1992. His distributive share of the capital gain is $20,000. He also has a limited partnership interest in Activity B, from which he received $15,000 in interest in 1992. He also received $18,000 in interest from Activity C, which is effectively connected with the active conduct of his trade or business. Additionally, he received $23,000 in Part A non-Mass. bank interest from a trust fund that is not effectively connected with the active conduct of his trade or business. In all, Davis has $76,000 of Part A income, $35,000 of which is passive income from Activity A and Activity B, and $18,000 of which is connected with the active conduct of his trade or business.

Davis also has excess Part B deductions allowed under MGL Ch. 62, sec. 2(d) totaling $60,000, $35,000 of which is passive loss that, for federal purposes, is offset by the $35,000 of passive income under IRC Section 469(d)(1)(B). Davis may use the excess Part B deductions to offset Part A income as follows:

First, Davis may offset $18,000 in interest connected with the active conduct of his trade or business from Activity C, as well as $15,000 in interest received from his limited partnership interest in Activity B. See Schedule C-2, Items 6(a) and 6(b). Second, Davis may offset the $20,000 capital gain from his limited partnership in Activity A. See Schedule C-2, Item 9(b). However, Davis may not offset any excess Part B deductions against the $23,000 interest from the trust fund. Thus, Davis is allowed to offset $53,000 of his Part A income: $18,000 in interest effectively connected with the active conduct of a trade or business, and $35,000 in capital gains and interest which, for federal purposes, is allowed to offset Davis' $35,000 passive loss under IRC Section 469(d)(1)(B). Davis has $23,000 in remaining Part A income, taxable at the rate of 12%.

No Carryforward of 1987 Passive Losses

For federal purposes, for taxable years beginning on or after January 1, 1987, losses disallowed because of the passive loss rules of IRC Section 469 could be carried forward to succeeding taxable years to offset future passive income. Because Massachusetts did not adopt the 1986 federal Tax Reform Act changes until 1988, 1987 passive activity losses, like other losses, were deducted from Massachusetts gross income to reach Massachusetts adjusted gross income. Taxpayers reported the taxable income difference due to the different U.S. and Massachusetts loss rules on the appropriate Massachusetts schedules with the explanation, "Taxable income differences due to different Mass. and U.S. loss rules (net passive activity loss)."

In general, taxpayers should report the same amount of passive losses on their 1992 Massachusetts tax returns as they report on their 1992 U.S. tax returns. Differences in 1987 amounts reported for U.S. and Massachusetts tax purposes should be adjusted for when the property is disposed of or when the federal loss carryover is used. Taxpayers who carry over an amount from 1987 for U.S. tax purposes may not deduct these carryover losses in Massachusetts in later years.

Example

In 1987, Taxpayer Jones had $10,000 of passive losses which, for federal purposes, could not be taken against other income on his U.S. tax return. As a result, Jones carried forward this unused loss to future tax years for federal purposes. In contrast, Jones used this $10,000 loss to offset his 1987 Massachusetts Part B income. During 1992, Taxpayer Jones, a full-year Massachusetts resident disposed of his entire interest in the passive activity in a fully taxable transaction for $250,000. Jones will report a $240,000 gain on his 1992 U.S. return — $250,000 minus the $10,000 carryover allowed under IRC Section 469(g). However, since taxpayer Jones already reported the $10,000 loss on the 1987 Massachusetts return, he must report a gain of $250,000 on his 1992 Massachusetts return.

Example

Taxpayer Smith had $15,000 of passive losses in 1987 which could not be set off against other income on her U.S. return. She carried forward these losses for U.S. tax purposes. However, Smith was able to use these losses in full to offset Part B income on her 1987 Massachusetts return. Smith used this $15,000 carryover loss for U.S. tax purposes in 1992 to offset $15,000 in income from a passive activity and must record a U.S./Massachusetts difference of $15,000 in taxable income since the losses were used in 1987 for Massachusetts tax purposes. Any amount of losses which exceeded your 1987 Part B income on your 1987 Massachusetts return is not available for carryover to Massachusetts returns in later years.

Differences Between Massachusetts and U.S. Taxable Income

To calculate Massachusetts taxable income, Massachusetts uses your federal gross income, as determined by the U.S. Internal Revenue Code (IRC) in effect on January 1, 1988, as a starting point. As an intermediate step, Massachusetts gross income is reached by modifying, adding or subtracting items to federal gross income. Massachusetts gross income is then classified into two groups:

- 5.95% income which includes such items as wages, partnership income and trade or business income, taxable pensions, interest from Massachusetts banks, alimony, unemployment compensation, IRA/Keogh distributions and rental income; and
- 12% income which includes such items as dividends, capital gains and interest from sources other than Mass. banks.

After determining 5.95% and 12% gross income, each category is further modified to first reach 5.95% and 12% adjusted gross income and, finally, 5.95% and 12% taxable income.

Gross Income

Federal gross income provides the starting point for determining taxable Massachusetts income. Your federal gross income includes:

- wages, salaries, tips, bonuses, fees and other compensation;
- taxable pensions and annuities;
- alimony;
- income from a business, profession, partnership, S corporation, trust or estate;
- rental, royalty and REMIC (Real Estate Mortgage Investment Conduit) income;
- unemployment compensation;
- interest and dividends;
- gambling winnings;
- capital gains;
- taxable portions of scholarships and fellowships; and
- any other income not specifically exempt.

Income which is included in federal gross income will be part of your Massachusetts gross income unless it is specifically excluded by some provision of Massachusetts law. Conversely, an item which is not included in federal gross income will not be part of Massachusetts gross income unless it is specifically added by some provision of Massachusetts law.

Income to Be Added to Federal Gross Income

The following income must be added to federal gross income to arrive at Massachusetts gross income. This income is not included in federal gross income, since it is exempt from federal income taxation. Such income is, however, part of Massachusetts gross income, taxable under particular provisions of the Massachusetts General Laws (MGL).

- interest on state and local obligations other than those of Massachusetts or its political subdivisions;
- the amount of income earned by a resident of Massachusetts from foreign employment and excluded from federal gross income;

- the amount of employer-provided educational assistance and legal services excluded from federal gross income;
- voluntary employee contributions made under Section 403(b) of the Internal Revenue Code;
- employee contributions to Massachusetts state and local government pension plans.

If you disposed of property during the tax year, MGL Ch. 62, sec. 6F requires that when determining Massachusetts gross income you adjust federal gross income by any differences between the federal and Massachusetts basis of the property. If federal basis exceeds Massachusetts basis, federal gross income must be increased by the difference; conversely, if the Massachusetts basis is greater, federal gross income must be decreased by the difference. For a more detailed discussion of basis rules, see the section titled "Massachusetts Basis Rules," and see TIR 88-7.

Items to Be Excluded from Federal Gross Income

The following items originally included in federal gross income must be subtracted out. Although these items are taxable at the federal level, they are not part of Massachusetts gross income and are exempt from Massachusetts income tax:

- interest on obligations of the United States;
- income received from a trustee or other fiduciary if that income is taxable to the trustee or other fiduciary in Massachusetts;
- dividends from a corporate trust to the extent the dividends are exempt from taxation under MGL Ch. 62, sec. 8;
- income from a contributory retirement plan of the U.S. Government or the Commonwealth of Massachusetts and its political subdivisions;
- income from a contributory retirement plan from other states that do not tax income from a Massachusetts retirement plan;
- distributions from an IRA until previously taxed contributions have been recovered;
- income from Internal Revenue Code Section 403(b) annuities, pensions, etc., until contributions have been recovered; income from a Keogh plan until contributions have been recovered;
- the amount of social security benefits included in federal gross income;
- income (including royalty income) from the sale or lease of certain patents approved by the Massachusetts Division of Energy Resources as useful for energy conservation and related purposes. The income may be deducted for a period of five years from the issuance of the patent or approval by the Division of Energy Resources, whichever occurs sooner.

Example

Dale's federal gross income is $25,000. This is the third year Dale has withdrawn $2,000 from an IRA to which he contributed a total of $5,000. Dale has several U.S. government bonds which pay a total of $500 interest annually, as well as state and local bonds from states other than Massachusetts which pay a total of $1,000 interest.

Dale's Massachusetts gross income is $24,500, determined as follows:

From federal gross income, he subtracts items not taxed in Massachusetts:

Federal gross income	*$25,000*
IRA distributions	*(1,000)*
U.S. bond interest	*(500)*
	$23,500

Dale adds the following, not taxed federally:

Other state bond interest	*$ 1,000*
Total	*$24,500*

Proceeds from an IRA are exempt under Massachusetts law only until the contributions are recovered. Dale has now withdrawn $6,000, but his contribution was only $5,000. Dale must, therefore, include the difference in his Massachusetts gross income. Since his federal gross income includes the entire $2,000 taken from the IRA, Dale deducts $1,000 from federal gross income, leaving $1,000 as part of Massachusetts gross income. Dale also subtracts the U.S. bond interest, because it is not taxable in Massachusetts. Dale adds the $1,000 in bond interest from other states because it is taxable in Massachusetts, but not included in federal gross income.

Massachusetts Adjusted Gross Income

To calculate Massachusetts **adjusted** gross income, Massachusetts gross income is divided into two classes: 5.95% income and 12% income.

5.95% Adjusted Gross Income

5.95% adjusted gross income is determined by modifying 5.95% gross income. Massachusetts allows many of the deductions from federal gross income allowed by Sections 62 and 404 of the Internal Revenue Code but omits some and alters others.

Massachusetts adopts a modified version of the federal deduction for unreimbursed employee business expenses. The deduction for unreimbursed travel and transportation expenses incurred by any employee, and unreimbursed gifts, entertainment and other employee business expenses incurred by employees who solicit business for an employer away from the employer's place of business are allowed only if you itemize deductions on your federal income tax return. The deduction is allowed only for amounts that, taken together with other miscellaneous itemized deductions, exceed 2% of federal adjusted gross income. The amount you are reimbursed for business expenses continues to be an allowable deduction, regardless of whether you are required to substantiate or return any unused portion of this amount. The following federal deductions are not allowed in calculating Massachusetts adjusted gross income:

- deductions not related to Massachusetts gross income;
- the deduction allowed by IRC Section 62(a)(5) relating to life tenants and income beneficiaries of property to the extent a trust or estate taxable under this section is allowed the deduction;
- net operating loss deductions allowed by IRC Section 172;
- the deduction allowed by IRC Section 404 for Keogh plan payments made by self-employed persons;
- the deduction allowed by IRC Section 1379(b)(3) (relating to amounts not received as benefits from certain qualified pension plans);
- the deduction (if any) allowed by IRC Section 219 for contributions to an IRA;
- the deduction allowed by IRC Section 402(e)(3) of the ordinary income portion of a lump-sum distribution to the extent included in gross income;
- the deduction allowed by IRC Section 164(f) equal to 50% of the self-employment tax; and
- the deduction allowed by IRC Section 162(h) for certain travel expenses of state legislators away from home.

Example

Ellen deposits the maximum allowable amount in her IRA and takes a deduction for that amount on her federal income tax return. The amount deducted under federal law must be included for Massachusetts tax purposes. When Ellen withdraws her IRA proceeds, they will be free from Massachusetts taxes until Ellen has recovered her contributions. The same result follows when a Keogh plan rather than an IRA is involved.

Example

Marvin works for a law firm and incurs unreimbursed travel expenses while performing services for the firm away from home, including expenses for food and lodgings. Marvin may deduct these expenses, provided he itemizes on his federal return and provided the expenses, taken together with other miscellaneous itemized deductions, exceed 2% of his federal adjusted gross income.

Example

Harry and Bill work for Sky Corporation. Harry works as a clerical employee and Bill works as a traveling salesman. During the year, each takes a refresher course in selling techniques. Harry may not deduct the cost of this course; Bill may, provided he itemizes deductions on his federal tax return and if his deductible business expenses, taken together with other miscellaneous itemized deductions, exceed 2% of his federal adjusted gross income.

12% Adjusted Gross Income

12% adjusted gross income is determined by modifying 12% gross income. Massachusetts generally does not follow federal rules here. Among the deductions Massachusetts allows in calculating 12% adjusted gross income are:

- Any excess of the deductions allowed in reaching 5.95% adjusted gross income (AGI deductions). This deduction is allowed to the extent the 12% income is either effectively connected with a trade or business of the taxpayer or allowed under IRC Section 469(d)(1)(B) to offset losses from passive activities. (Massachusetts does not follow the federal rule that allows net operating loss carryovers.)
- A net capital loss, up to a maximum of $1,000. This deduction may be taken only against interest and dividends. Any unused capital losses may be carried forward indefinitely. (The federal rule allows $3,000 of capital losses to be set off against ordinary income.)
- 50% of a net long-term capital gain; however, the allowable deduction must be determined after the gain is reduced by any 5.95% AGI deductions taken against 12% income. (For federal tax purposes, no long-term capital gain deduction is currently allowed.)

Example

Jason has 5.95% gross income of $8,000, and Massachusetts AGI deductions of $10,000. Jason may deduct $2,000 from his 12% income, but only if the 12% income is effectively connected with Jason's trade or business or allowed under IRC Section 469(d)(1)(B) to offset losses from passive activities.

Example

Laura has a net long-term capital gain for the year of $25,000 (her only 12% income) which is effectively connected with her trade or business. She also has $5,000 in Massachusetts AGI deductions exceeding her 5.95% gross income which may therefore be deducted from her 12% income since that income is effectively connected with her trade or business. Laura may also deduct 50% of her net long-term capital gain which after reduction by the $5,000 is $10,000.

Taxable Income

In arriving at taxable 5.95% and 12% income, Massachusetts does not allow the federal exemptions or most of the federal itemized deductions, e.g., the deduction for home mortgage interest or the deduction for charitable contributions. An

exception is made for medical expenses, which Massachusetts allows as an exemption. Massachusetts has its own specific exemptions and deductions, including those listed below.

5.95% Income

Deductions:

- contributions up to $2,000 per taxpayer paid to FICA (Social Security and Medicare) or under the Federal Railroad Retirement Act; or sums deducted from wages as contributions to a pension or annuity fund of the U.S., the Commonwealth or its political subdivisions;
- $100 of Massachusetts bank interest per single return, or married filing separate return, or $200 of such interest per married filing joint return;
- employment-related expenses paid to someone to care for one or more children under age 15 (or a disabled dependent) — as an alternative, you may deduct one $600 amount if your household contains one or more dependents under age 12; you must be single or married filing jointly to claim the $600 deduction; and
- 50% of the rent for a principal residence in Massachusetts, not to exceed $2,500 (or $1,250 if married filing separately).

Exemptions:

- *Single or Married Filing Separately:*
  1. a personal exemption of $2,200 (unlike the federal rules, you are entitled to a personal exemption even if you are claimed as a dependent by another taxpayer);
  2. an additional $2,200 if you were totally blind; and
  3. an additional $700 if you were 65 or older before the close of the taxable year.
- *Married Filing Jointly:*
  1. a total exemption of $4,400 for you and your spouse;
  2. an additional $2,200 for each spouse who was totally blind; and
  3. an additional $700 for each spouse who was 65 or older before the close of the taxable year.
- *All Taxpayers:*
  1. $1,000 per dependent (as defined in IRC Section 151);
  2. an amount equal to the deduction for medical, dental and other expenses allowed under IRC Section 213 (this deduction may only be claimed if you itemize federally); and
  3. fees in excess of three percent of 5.95% adjusted gross income paid to a licensed adoption agency to adopt a minor child.

12% Income

Exemptions. If your total exemptions from 5.95% income exceed 5.95% income after deductions, you may apply the excess to all 12% income. To do this, married couples must file joint returns. For more information, see DOR Directive 86-27. If you are the beneficiary of a Massachusetts trust or estate, you must apply excess exemptions as outlined in DOR Directive 86-39.

Massachusetts Basis Rules

This section explains the general rules for determining the Massachusetts adjusted basis of property that has been sold or exchanged during the taxable year. You need to know the adjusted basis of such property in order to calculate properly the gain or loss to be reported on your Massachusetts income tax return. For Massachusetts tax purposes, your adjusted basis in property sold or exchanged during the taxable year is calculated by determining your initial Massachusetts basis in the property, and then adding or subtracting any adjustments required under Massachusetts law during the period when the property was held. Because a significant change in Massachusetts personal income tax laws became effective on January 1, 1971, the rules for determining basis are divided into two sections depending on whether the property was acquired before or after that date. **Note:** If you are a nonresident, see the section on "Application to Nonresidents". To make basis calculations, you must know the following:

For initial basis

- initial U.S. basis in property;
- when the property was acquired (before January 1, 1971 or after December 31, 1970); and
- how the property was acquired (by purchase, taxable or nontaxable exchange, inheritance, gift, etc.).

For adjusted basis

- what adjustments to the initial basis of the property were required by the provisions of U.S. and Massachusetts law during the period when the property was held (for depreciation, capital improvements, sec. 179 deductions, residential energy credits, S corporation basis adjustment, etc.).

Sale of Property You Acquired After December 31, 1970

Massachusetts Initial Basis. The initial basis of property acquired after December 31, 1970 is generally the same under U.S. and Massachusetts rules. In certain cases, however, it will differ. For property acquired after December 31, 1970, from a decedent, as a gift, or in a like-kind exchange or similar transaction where the basis of prior property is used, special rules apply. If your property was acquired under any of these circumstances, refer to Massachusetts General Laws, (MGL), Chapter 62, Section 6F, (b)(2)(A), (B) and (C).

Massachusetts Adjusted Basis. The adjusted basis of property acquired after December 31, 1970 is generally the same under U.S. and Massachusetts rules. Accordingly, the gain or loss reported on the Massachusetts return is the same as that reported on the U.S. return. However, it will differ where, at any time during the period the property was held, Massachusetts did not follow the U.S. rules regarding the basis of that property.

The relevant provisions of the Massachusetts personal income tax and the Internal Revenue Code coincided precisely only four times since 1970 — in 1971, 1977, 1983 and 1988. In all other years during this period, the Massachusetts income tax was tied to an earlier year's Internal Revenue Code, so that a change or addition to a basis-adjustment provision may have been incorporated for U.S. tax purposes, but not for Massachusetts tax purposes.

The easiest way to see how the Massachusetts adjusted basis rules work is to apply them to examples.

Example
(When Mass. and U.S. adjusted basis are the same)

Ed and Jane are Massachusetts residents who sold their single-family home on January 1, 1992 for $200,000. Ed and Jane purchased the property in 1985 for $100,000 and made $15,000 in capital improvements over the next five years. They took no deductions requiring adjustments to basis (such as depreciation) while they owned the house. When Ed and Jane sold the property, their U.S. adjusted basis was $115,000 (their initial basis of $100,000 plus capital improvements of $15,000). Ed and Jane's Massachusetts adjusted basis was also $115,000, because the basis adjustment provisions that applied to this property while they held it were the same for both U.S. and Massachusetts purposes.

Example
(When Mass. and U.S. adjusted basis are different)

Larry and Diane are Massachusetts residents who sold rental property on January 1, 1992 for $200,000. They had purchased the property on January 1, 1985 for $120,000, of which $20,000 was for the land value. They had made no improvements to the property while they owned it.

On their U.S. tax returns for 1985-1991, Larry and Diane took depreciation deductions: $9,000 the first year and a total of $42,000 for 1986-1991. On their Massachusetts returns for 1985-1991, Larry and Diane also took deductions for depreciation: $12,000 the first year and a total of $42,000 for 1986-1991. Massachusetts and U.S. depreciation rules differed in 1985 because Massachusetts followed the Internal Revenue Code in effect on February 1, 1983. Rental property placed in service in accordance with U.S. guidelines as of February 1, 1983 was assigned a 15-year recovery period, compared with the 18-year recovery period under the U.S. guidelines in effect on January 1, 1985. In 1986, however, Massachusetts updated its personal income tax to the Internal Revenue Code in effect on January 1, 1985, and adopted the 18-year recovery period.

When Larry and Diane sold the property, their U.S. adjusted basis was $69,000 (their initial basis of $120,000 minus the U.S. depreciation deduction of $51,000 they took in connection with the property). Larry and Diane's Massachusetts adjusted basis in the rental property was $66,000 (their initial basis of $120,000 minus the Massachusetts depreciation deduction of $54,000 they took in connection with property).

For U.S. tax purposes, Larry and Diane realized a gain of $131,000 on the sale ($200,000 minus $69,000). For Massachusetts purposes, however, their gain was $134,000 ($200,000 minus $66,000) — $3,000 more than the gain for U.S. purposes because of the higher depreciation deduction Massachusetts had allowed Larry and Diane in 1985.

Sale of Property You Acquired Before January 1, 1971

For property acquired before January 1, 1971, the Massachusetts initial basis may differ from the U.S. initial basis. If such property had been sold in the course of business on December 31, 1970 (the day before a major change in the Massachusetts law), and a gain would have been subject to Massachusetts tax at that time, then the Massachusetts initial basis for determining gains or losses from a sale of the property in 1991 is calculated as follows:

Gain — Massachusetts initial basis for computing gain is the property's adjusted basis on December 31, 1970 under the Massachusetts laws in effect on that date.

Loss — Massachusetts initial basis for computing loss is the lower of the property's Massachusetts adjusted basis on December 31, 1970, or its U.S. adjusted basis on that date.

In the case of any other property acquired before January 1, 1971, and sold in 1991, the Mass. initial basis is the same as the U.S. adjusted basis on December 31, 1970, determined without regard to any U.S. adjustment for gift tax paid.

Once you have determined your Massachusetts initial basis in property acquired before January 1, 1971, you calculate your Massachusetts adjusted basis as described above in the section on property acquired after December 31, 1970.

Example

Jim and Jean are Massachusetts residents who sold rental property on January 1, 1992 for $150,000. They had purchased the property on December 31, 1967 for $25,000, of which $5,000 was for the land value.

For U.S. tax purposes, their initial basis in the property was $25,000 — the property's cost when purchased. On their U.S. tax returns for 1968-1991, Jim and Jean took depreciation deductions on the property of $600 each year. Their U.S. depreciation deductions over the period they owned the rental property totaled $14,400 ($600 x 24 years). When Jim and Jean sold the rental property, their U.S. adjusted basis was $10,600 (their initial basis of $25,000 minus the depreciation deductions of $14,400).

For Massachusetts tax purposes, Jim and Jean's initial basis in the rental property is the amount their adjusted basis would have been on December 31, 1970 under the basis rules that were then in effect. The Massachusetts basis rules in effect before January 1, 1971 did not allow taxpayers to deduct or adjust basis for depreciation, so that their basis as of December 31, 1970 would have been their cost basis of $25,000. On their Massachusetts tax returns for 1971-1991, they took depreciation deductions on the rental property of $600 each year. Their Massachusetts depreciation deductions over the period they owned the rental property totaled $12,600 ($600 x 21 years). When Jim and Jean sold the property in 1992, their Massachusetts adjusted basis was $12,400 (their initial basis of $25,000 minus the depreciation deductions of $12,600).

For U.S. tax purposes, Jim and Jean realized a gain in 1992 of $139,400 (the selling price of $150,000 minus the adjusted basis of $10,600). For Massachusetts tax purposes, they realized a gain in 1992 of $137,600 (the selling price of $150,000 minus the adjusted basis of $12,400). Thus, the gain reported on Jim and Jean's 1992 U.S. tax return totals $1,800 more than the gain reported on their 1992 Massachusetts tax return.

Sales of Intangible Property. The steps outlined above explain the Massachusetts basis rules in the context of sales of tangible property. The same principles would apply to sales of intangible property, such as stock or an interest in a partnership. For additional information on basis adjustments which may be required by a shareholder upon the sale or exchange of Massachusetts S corporation stock, refer to Technical Information Release 88-11 and Massachusetts Regulation 830 CMR 62.17A.1.

Application to Nonresidents. The Massachusetts basis rules apply to nonresidents as well as to Massachusetts residents. Some nonresidents, however, may have sold property in 1992 that did not become subject to taxation under the Massachusetts personal income tax statute (MGL Ch. 62) until some time after the nonresident acquired the property. In such cases, the nonresident determines his or her Massachusetts initial basis as set out in the examples above, but adjusts this initial basis differently. For the period that the income was subject to the Massachusetts personal income tax, the nonresident makes only those basis adjustments that applied in Massachusetts (just as a resident does). But for the period that the property was not subject to the Massachusetts personal income tax, the nonresident adjusts the basis for whatever U.S. provisions were applicable during the period.

Filing Requirements

Should I File a Massachusetts Tax Return?

Massachusetts tax law distinguishes between residents and nonresidents. Residents are generally taxed on all their income. Nonresidents are only taxed on their Massachusetts source income.

If you were a resident of Massachusetts and your gross income from all sources was more than $8,000 in tax year 1992, you are required to file a Massachusetts income tax return. Massachusetts residents must file either Form 1 or Form ABC. If your gross income was less than $8,000, it is not necessary for you to file a return. For a detailed discussion on gross income see the section on "Differences Between Massachusetts and U.S. Taxable Income."

If you were a nonresident, but received Massachusetts source income in 1992 in excess of the smaller of $8,000 or your prorated personal exemption (the amount of your personal exemption multiplied by the ratio of your Massachusetts income to your total income), you must file a Massachusetts Nonresident Income Tax Return, Form 1-NR. At a minimum, this means you must file Form 1-NR if you were a nonresident and you received Massachusetts source income in excess of $2,200 if single or $4,400 if married filing jointly.

May My Spouse and I File Jointly?

Yes. Married taxpayers may usually file jointly. A joint return is allowed even if only one spouse has income. A joint return must be signed by both spouses. Married taxpayers may not file jointly when the spouses have different taxable years for Massachusetts purposes.

Example

Joe and Amy were married in June 1992. Joe moved to Massachusetts to live with Amy in June. They would not be allowed to file a joint return because Joe was a Massachusetts resident for only the second half of 1992.

What Are the Advantages to Filing a Joint Return?

Married taxpayers who file a joint return are allowed to claim certain exemptions and deductions which married taxpayers filing separate returns may not claim:

- a deduction of one $600 amount for any dependent member of the household under the age of 12 as of December 31, 1992;
- No Tax Status if joint Massachusetts Adjusted Gross Income (Mass. AGI) on Schedule NTS-L was $12,000 or less;
- Limited Income Credit if joint Massachusetts AGI on Mass. Schedule NTS-L is above $12,000 and does not exceed $21,000; and
- exemptions from 12% income.

What Form Should I File If I'm a Resident of Massachusetts?

If you were a resident of Massachusetts and your gross income from all sources was more than $8,000 in tax year 1992, you may file either Form 1 or Form ABC. If your gross income was $8,000 or less, it is not necessary for you to file a return. If your income was $8,000 or less, you will want to file a return to obtain a refund of any Massachusetts amount withheld from your pay by your employer.

Form ABC is a simpler, shorter form for taxpayers with less complex filing situations. Most taxpayers who may file a U.S. Form 1040A or 1040EZ may file a

Massachusetts Form ABC. You may file Form ABC if you answer "Yes" to all of the following:

Yes__ No__ you were a Massachusetts resident for all of 1992;

Yes__ No__ you are single or married filing a joint return;

Yes__ No__ your income after exemptions and deductions was $80,000 or less; and

Yes__ No__ your income **only** consisted of one or more of the following:

- wages, salaries, tips;
- winnings, prizes and awards;
- fees, such as jury duty;
- interest from savings deposits or accounts in banks or similar organizations in Massachusetts;
- pensions and annuities;
- alimony; or
- unemployment compensation.

You may not file Form ABC, and must file a Form 1, if you answer yes to **any** of the following:

Yes__ No__ you were a resident of Massachusetts for part of 1992 only;

Yes__ No__ you are married filing separately;

Yes__ No__ your income after deductions and exemptions was more than $80,000;

Yes__ No__ your income consisted of any of the following:

- income from business or profession;
- rental, royalty, partnership, S corporation, trust or REMIC income;
- interest other than from banks located in Mass.;
- dividends; or
- capital gain(s).

Yes__ No__ you or your spouse claim any deduction for medical expenses, alimony paid, penalty for early savings withdrawal or employee business expenses;

Yes__ No__ you are eligible for a credit for income tax paid to other jurisdictions, an energy credit, a lead paint credit, or universal health care credit.

What Form Do I File If I'm a Nonresident?

If you were not a resident of Massachusetts but earned Massachusetts source income in excess of the filing threshold, you must file Form 1-NR.

What Form Do I File If I'm a Part-year Resident?

If you moved into or out of Massachusetts during the taxable year, you are a part-year resident and must file Form 1 if you meet the $8,000 filing threshold for the portion of the year that you were a resident. Part-year residents may **not** file Form ABC.

What Form Do I File If I Received Mass. Source Income Before Moving Into or After Moving Out of Massachusetts?

If you receive Mass. source income before moving into or after moving out of Massachusetts, you may be one of a small number of people who have to file both Form 1 and Form 1-NR. If your Massachusetts gross income exceeds $8,000 for the year, you must file both forms. You must use Form 1 to cover the portion of the year in

which you were a Massachusetts resident and Form 1-NR for the portion of the year you were a nonresident but had Mass. source income. For a comprehensive discussion on filing both Form 1 and 1-NR see the section on "Filing as a Part-year Resident When Still Earning Income in Massachusetts."

What Is Mass. Source Income?

Mass. source income is used to describe those types of income which are taxed to a nonresident. A nonresident is subject to tax on items of income derived from or effectively connected with:

- any trade or business carried on in Mass.;
- employment carried on in Mass.;
- participation in any lottery or wagering transaction in Mass.; or
- ownership of any interest in real or tangible personal property located in Mass.

Income which is **not taxable** to residents is not taxable to nonresidents. Examples include:

- interest on debt obligations of the U.S. (e.g., U.S. bonds and treasury notes);
- state income tax refunds;
- amounts received as social security payments, workers compensation and veterans benefits.

A comprehensive discussion of Massachusetts source income appears in Regulation 830 CMR 62.5A.1.

Example

Jennifer lives in Connecticut but is a partner in a partnership which operates and manages an apartment complex in a Boston suburb. Jennifer receives $17,000 per year in rental income from her interest in the partnership.

Jennifer's partnership income from ownership of real property in Massachusetts requires her to file a Mass. Form 1-NR.

Example

Andrew is a resident of Arizona but earns income in the form of dividends from common stock in a Massachusetts corporation. His dividend income from this stock is $10,000 per year.

Andrew's dividends are income from intangible property, not real and tangible property. Therefore, he does not have Mass. source income and need not file a Form 1-NR.

What Does Carrying on a Trade, Business or Employment in Massachusetts Mean?

The basic rule is that a nonresident generally does not have a trade, business or employment carried on in Massachusetts if the nonresident's presence for business is casual, isolated and inconsequential. If you are a nonresident, your business will be considered casual, isolated and inconsequential if it meets **one** of the following tests:

- your presence for business in Massachusetts does not exceed 10 days in the taxable year unless you earn more than $6,000 of gross income directly from business or employment activities;
- your gross income from presence for business in Massachusetts does not exceed $6,000 in the taxable year; or
- your presence for business in Massachusetts is ancillary to your primary business or employment duties performed at a base of operations outside Massachusetts as with an occasional presence in Massachusetts for management reporting, planning or training, and other similar activities which are secondary to the individual's out-of-state duties.

Example

John, a New Hampshire plumber, is hired to work at a building site in Massachusetts. John spends three weeks working in Massachusetts but earns only $2,400. This is John's only business contact with Massachusetts during 1992. John's presence is considered to be casual, isolated and inconsequential because he earned less than $6,000.

Example

Patty, a journalist from California, gives a speech at a Massachusetts college for which she is paid $15,000. Patty is only in Massachusetts for one day. She is considered to be carrying on business in Massachusetts because she is paid more than $6,000.

Example

Kathy, the regional manager of a New England shoe manufacturer, has an office in the company's headquarters in Portland, Maine. The company maintains four retail outlets in Massachusetts, and the manager spends one week each month assisting in the management of each of the four stores. She is considered to be employed in Massachusetts.

How Do I Know Where My Legal Residence or Domicile Is?

A person's domicile is his/her place of legal residence. It is determined by all the facts and circumstances particular to his/her case. It is not necessarily defined as where your house or home is located. In general, though, if you have only one house, it is your domicile. However, if you have more than one house, your domicile is determined by your center of activity. You cannot choose to make your home in one place for your most important social and work activities and in another for tax purposes.

Your legal residence is the place which, as demonstrated by all the facts and circumstances, you consider to be your home and the place to which you intend to return following an absence. If you are domiciled in Massachusetts, you remain a Massachusetts resident regardless of any temporary or protracted absence, unless you have established a new home in another state and intend to remain there.

Your legal residence is the place where you maintain your most important family, social, economic, political and religious activities. Among other factors, the following demonstrate your center of activity:

- your place of employment;
- the amount of time you spend in each state;
- the types of activities conducted in each state;
- the relative importance of those activities;
- where you own real and/or personal property;
- where your car is registered; and
- where you registered to vote.

None of these factors alone determines domicile. Once again, domicile is determined by all the facts and circumstances connected with your situation.

Example

Joe decided to move from Pennsylvania to Massachusetts in June. He quit his job in Pittsburgh and moved to Boston intending to stay. Shortly thereafter, he got a job, bought a house and joined the local YMCA. Although Joe has moved to Massachusetts, he still has family ties in Pennsylvania.

When Joe decided to move to Massachusetts, he **intended** to stay. In addition, he owns property here, has a new job in the state and has made an effort to join local clubs. Joe is, therefore, a resident of Massachusetts.

Example

Carol and Edward own one home in Massachusetts and another in Watch Hill, Rhode Island. The first is their primary residence while the second is a summer

cottage. For three months each year Carol and Edward vacation and live in Watch Hill. Both Carol and Edward work in Massachusetts as teachers during the other nine months. They do not earn income while in Rhode Island.

An extended vacation outside the state has no bearing on Carol and Edward's Massachusetts residency because they intend to return to the state. A person remains a Massachusetts resident regardless of any temporary or protracted absence.

What About Military Personnel?

In general, military personnel and their spouses are legal residents of the state in which they live when they enlist. They do not acquire domicile at their duty posts unless they show that they have established a new domicile at the duty station. Nonresident military personnel may be subject to Massachusetts taxes if they earn income from other than military sources.

The following examples illustrate the circumstances under which military pay is taxable in Massachusetts. No guidance is intended on the tax status of such pay under the laws of other states. Often, when income is taxable in two jurisdictions, a credit for taxes paid to the other is allowed on the taxpayer's return in the state of his/her residence.

Example

Bruno and Jennifer are residents of Georgia. Bruno enlisted in the Army in Georgia, but was stationed in Massachusetts and moved here with his wife, Jennifer. He earned $30,000 in military pay. Bruno and Jennifer had no other income.

Military personnel and their spouses are residents of the state in which they resided when they enlisted. Since Bruno enlisted in Georgia, he and his wife are considered residents of that state. They are not residents of Massachusetts and are not required to file a Massachusetts resident return.

Note: While the military income of nonresident military personnel is not subject to Massachusetts taxation, any other income nonresident members of the military or their spouses earn from Massachusetts sources is subject to Massachusetts income tax.

Example

Linda enlisted in the Navy in Massachusetts, but moved with her husband Mike to Delaware when she was stationed there. They did not change their domicile to Delaware. She received military income while her husband received income working as a reporter for a local newspaper.

Linda's income from the Navy, as well as her husband's income from the newspaper, are both subject to Massachusetts income tax since she enlisted in the Navy in Massachusetts and they are not residents of Delaware. Linda and her husband are, therefore, Massachusetts residents, and any income they receive, whether derived in Massachusetts or not, is included in their Massachusetts gross income.

For further information regarding the filing requirements of military personnel, refer to DOR Directives 86-10, 86-11 and 86-12.

Are There Any Special Rules for Students?

No. The guidelines outlined in the section entitled "How Do I Know Where My Legal Residence or Domicile Is?" are also applicable to students — both those from Massachusetts who attend out-of-state schools and those from out-of-state who attend Massachusetts schools.

Example

Suejung is a student at the University of Massachusetts and rents an apartment in Amherst. She is originally from Oklahoma, but intends to start a computer software company after she graduates. While in school, Suejung writes computer

programs for local businesses. Suejung has begun voting in Massachusetts, has registered her car here and has obtained a Massachusetts drivers license. Suejung has also joined a local church.

Suejung intends to stay in Massachusetts and establish a business here. Therefore, if her gross income exceeds $8,000, she must file a Massachusetts resident income tax return.

Example

Myles was born and raised in Massachusetts but enrolled in the University of California. Myles earns money working for the school.

Myles continues to be a Massachusetts resident because he has not made any decision whether or not to return to Massachusetts when he graduates. Remember, all income earned by Massachusetts residents is taxable, whether earned inside or outside the state. Therefore, if Myles earns more than $8,000 gross income, he must file a Massachusetts resident income tax return.

Part-year Resident and Nonresident Adjustments to Income, Deductions and Exemptions

Am I a Part-year Resident or Nonresident for Massachusetts Tax Purposes?

If you abandoned or established residence in Massachusetts during the taxable year, you are a **Part-year Resident**. In this case, you must reduce certain income, deductions and exemptions based on the number of days you were a resident or on the amount of income that is subject to tax. Explanations of the adjustments which part-year residents must make are explained below.

If you were not a resident of Massachusetts but earned Massachusetts income (e.g. from a job in Massachusetts), you are considered a **Nonresident** and you must report such income by filing a Nonresident Income Tax Return, Massachusetts Form 1-NR. For further information on whether you must file as a nonresident see the section on "Filing Requirements." Nonresidents must make certain modifications to their income, exemptions and deductions to reflect the fact that they are taxed only on their Mass. source income. Explanations of the adjustments which nonresidents must make are explained below.

A limited number of people are both part-year residents and nonresidents deriving income from Massachusetts sources and are required to file both Form 1 and Form 1-NR. For a discussion of the special adjustments that such taxpayers must make see the section "Filing as a Part-year Resident When Still Earning Income in Massachusetts."

What Adjustments Must I Make as a Part-year Resident?

If you are part-year resident, you must make adjustments to income amounts, deductions and exemptions. These adjustments are needed to account for the part of the year when you were not a Massachusetts resident.

What Are the Adjustments for Income Amounts for Part-year Residents?

In general, if you earned only a portion of the income you reported on your U.S. return while you were a resident of Massachusetts, you must subtract from your U.S. income the amount earned and received while you were legally domiciled in another state or country.

Example

Ned lived and worked in Louisiana for the first five months of the taxable year. On June 1, Ned's company transferred him to Massachusetts where he worked and established residency for the rest of the year. Ned is a part-year resident for Massachusetts tax purposes for the period starting June 1 and must file a resident income tax return. Although Massachusetts residents are usually taxed on their gross income for the year, Ned may subtract from his U.S. wages the amount earned and received while a resident of Louisiana. In addition, if he received other types of income such as interest or dividends while a resident of Louisiana, for Massachusetts tax purposes, he may adjust his interest and dividend income totals for the year to include only the amounts he received after becoming a resident of Massachusetts.

What If I Had Income from Massachusetts Sources Before Becoming a Massachusetts Resident?

If you earn income from Massachusetts sources while a nonresident, you may be required to file a Massachusetts nonresident return for the period you were a

nonresident, in addition to the resident return you must file for the period you were a resident. Income is from Massachusetts sources if it is derived from or effectively connected with a trade or business carried on in Massachusetts, employment carried on in Massachusetts, participation in any lottery or wagering transaction in Massachusetts, or ownership of any interest in real or tangible personal property located in Massachusetts.

Example

Melissa and Bob lived and worked in Georgia until May of the taxable year. They also owned a vacation home on Cape Cod from which they received rental income on a year-round basis. In May, they accepted jobs in Massachusetts and moved here. They earned $10,000 in rental income from the Cape Cod home while they were nonresidents. Melissa and Bob are part-year residents for Massachusetts tax purposes after May and must file Form 1. However, since they had income from Massachusetts sources (e.g. from rental property in Massachusetts) while they were nonresidents, they must also file as Massachusetts nonresidents and include the rental income on Form 1-NR.

How Do Part-year Residents Adjust Deductions?

As a part-year resident, you must adjust deductions to account for the part of the year that you did not live in Massachusetts. The following deductions are based on the actual expenses which were paid while you were a Massachusetts resident:

- amounts paid to Social Security and Medicare (FICA), Railroad, U.S. or Massachusetts retirement systems;
- employment-related expenses to care for children under age 15, disabled dependents or a disabled spouse;
- one-half of rent paid for a principal residence located in Massachusetts, up to $2,500;
- allowable employee business expenses;
- penalty for early withdrawal of savings; and
- alimony paid.

Example

For part of the year, Sally lived in Massachusetts and earned $10,000. In March, she became a Connecticut resident where she earned $20,000. As a Massachusetts part-year resident, Sally may only deduct that FICA amount paid from the $10,000 earned in Massachusetts.

Example

James, a Massachusetts resident, was divorced in August 1992 and became a Maryland resident at the end of the month. In September, he began making alimony payments to his ex-wife. None of these payments are deductible on his Massachusetts part-year resident return.

The one Mass. deduction which is not based on actual expenses paid is the $600 deduction for one or more dependent members of the household under age 12. This deduction is prorated by the number of days you were a Mass. resident.

Example

Mary and Steven have two children, ages 2 and 5. In 1992, they were Massachusetts residents until July 31 when they moved to New York and established residency. On their Massachusetts return they may claim a deduction for a dependent under age 12. Since Mary and Steven lived in Massachusetts for 213 days, their calculation would look like this:

$$\frac{213}{365} \times \$600 = \$350$$

How Do Part-year Residents Adjust Exemptions?

If you were a part-year resident, you must prorate the exemptions for which you qualify based on the number of days you lived in Massachusetts. Each Massachusetts taxpayer is entitled to a personal exemption of $2,200. In addition, other exemptions are available for those who qualify. These exemptions are for:

- blindness ($2,200);
- attaining the age of 65 or over before the end of the taxable year ($700);
- dependents ($1,000);
- qualified medical and dental expenses; and
- qualified adoption fees.

Example

Aletia and her son became Massachusetts residents on May 10, 1992. On her income tax return, she may claim a personal exemption and a dependent exemption. She must prorate her exemptions of $3,200 (a $2,200 personal exemption plus a $1,000 dependent exemption) based on the number of days she lived in Massachusetts. Since Aletia lived in Massachusetts for 235 days, her calculation would look like this:

$$\frac{235}{365} \times \$3,200 = \$2,060$$

Are the Adjustments the Same for Nonresidents as for Part-year Residents?

No. In computing their Massachusetts taxable income, **nonresidents must make adjustments** to income amounts, deductions and exemptions. The adjustments are necessary because nonresidents are only taxed on Massachusetts source income.

What Are the Adjustments for Income Amounts for Nonresidents?

Income received by nonresidents is taxed only when it is from Mass. sources. Income is from Massachusetts sources if it falls into one of the following four categories: 1) income derived from or effectively connected with a trade or business carried on in Massachusetts; 2) income from employment carried on in Massachusetts; 3) income from participation in any lottery or wagering transaction in Massachusetts; or 4) income from ownership of any interest in real or tangible personal property located in Massachusetts. As a nonresident, you may subtract from your U.S. income any income which does not fall into one of these four categories.

Example

Ann works in Massachusetts and lives in New Hampshire. Her income includes her wages earned in Massachusetts and $800 of interest income — $400 of this interest income is received from a personal savings account in a Massachusetts bank, and $400 is received from deposits in a New Hampshire bank. On her Massachusetts return, Ann need only report her wages; she does not report any of the $800 of interest income on her Massachusetts return, because it is not Massachusetts source income.

How Do Nonresidents Adjust Deductions and Exemptions?

Since nonresidents are only taxed on income from Massachusetts sources, the deductions and exemptions allowed to them are limited to the amounts related to or proportionate to their Mass. source income. Certain deductions may only be claimed if they are directly related to Massachusetts source income. These deductions are:

- amounts paid to Social Security and Medicare (FICA), Railroad, U.S. or Massachusetts retirement systems;

- allowable employee business expenses; and
- penalty for early withdrawal of savings related to interest reported to Massachusetts.

Example

Jill and Ted are residents of Connecticut. During 1992, Jill worked in Connecticut, but Ted worked in Massachusetts. In June, he took a job in Connecticut to be closer to home. Jill made FICA contributions of $3,000. Ted contributed $2,500, $1,000 of which was paid when Ted worked in Massachusetts. On their nonresident return, Jill and Ted may deduct $1,000 for Ted's FICA contribution relating to his Massachusetts employment. They may not deduct any FICA amounts relating to Jill or Ted's Connecticut employment.

Other Massachusetts deductions and all exemptions must be prorated based on the ratio of your Massachusetts source income to the income that would have been taxed to you had you been a Massachusetts resident for the taxable year. This is called the **deduction and exemption ratio**.

How Do I Calculate Total Income for the Deduction and Exemption Ratio?

The deduction and exemption ratio is your total 5.95% and 12% Massachusetts source income divided by the total income you would have reported had you been a Massachusetts resident.

Differences between Massachusetts and federal tax laws often make the latter amount different from the total income you report on your federal return. See the section on "Differences between Massachusetts and U.S. Taxable Income." To arrive at the amount of income you would have reported had you been a resident, the following types of income included in your U.S. total income but **not taxable** in Massachusetts should be subtracted from the U.S. total:

- any portion of Social Security and Tier I Railroad Retirement benefits federally taxable;
- pensions from contributory retirement plans of the U.S., Massachusetts and other states which do not tax such income from Massachusetts;
- U.S. bond interest;
- state tax refunds; and
- portion of Keogh distributions allocable to original contributions.

Income from long-term capital gains must be adjusted to reflect the fact that Massachusetts has a 50% deduction for long-term capital gains. Income from the following categories which is **not included** in U.S. income must be added back to calculate the total income that would be reported as Massachusetts income had you been a Massachusetts resident:

- bond interest from other states;
- up to $70,000 in foreign-earned income;
- voluntary contributions to annuity plans established under Sec. 403(b) of the Internal Revenue Code;
- contributions to a pension plan by Mass. state or local employees; and
- net operating loss carryforward.

Example

Nonresidents Jane and John have Massachusetts income from the following sources: Jane had Massachusetts wages of $25,000, and John had Massachusetts director's fees of $600 and Massachusetts lottery winnings of $500. Neither Jane nor John had interest from Massachusetts banks or other interest, dividends or capital gains. Jane and John have non-Massachusetts income from the following sources: John had non-Massachusetts wages of $30,000, and together, Jane and

John had $700 of dividend income and $1,000 in U.S. bond interest. Jane and John have $57,800 in U.S. income, but only $56,800 in income that would have been taxed to them as Massachusetts residents. The difference occurs because Jane and John did not have to report their U.S. bond interest in computing the ratio for prorating deductions and exemptions since that income is not taxable in Massachusetts.

Once you have calculated your deduction and exemption ratio, divide the numerator by the denominator and carry this division out to four decimal places. This ratio represents the relationship of your Massachusetts source income to your total income. You must use it to prorate all your exemptions and the following deductions:

- dependent member of household under age 12 on December 31, 1992;
- child under age 15, disabled dependent/spouse care expenses; and
- alimony paid.

Example

Holly, a resident of Rhode Island who works in Massachusetts, has employment-related daycare expenses of $4,000 which qualify for the federal child care credit. Her total Massachusetts source 5.95% and 12% income is $35,000. She also has $800 of interest income which would have been taxed if she was a Massachusetts resident. Her deduction and exemption ratio is $35,000 divided by $35,800, or .9777. Her allowable child care deduction is .9777 x $4,000, or $3,910.80.

Nonresident Total Income Worksheet

1.	U.S. total income (from Form 1040, line 23; Form 1040A, line 14 or Form 1040EZ, line 3)		______
2a.	Any portion of Social Security and Tier 1 Railroad retirement benefits federally taxable	______	
2b.	Pensions from contributory retirement plans of the U.S., Massachusetts and other states which do not tax such income from Massachusetts	______	
2c.	U.S. bond interest	______	
2d.	State tax refunds	______	
2e.	Portion of Keogh distributions allocable to original contributions	______	
2f.	50% of U.S. long-term capital gains	______	
3.	*Add Items 2a through 2f*		______
4.	*Subtract Item 3 from Item 1*		______
5a.	Bond interest from other states	______	
5b.	Income earned in a foreign country excluded under Section 911 of the Code	______	
5c.	Voluntary contributions to annuity plans established under Sec. 403(b) of the Internal Revenue Code	______	
5d.	Contributions to a pension plan by Massachusetts state or local employees	______	
5e.	Net operating loss carryforward	______	
6.	*Add Items 5a through 5e*		______
7.	*Add Items 4 and 6*		______

Item 7 is your total income for purposes of calculating your deduction and exemption ratio. This amount should be entered on Form 1-NR, Item 14f.

Filing as a Part-year Resident When Still Earning Income in Massachusetts

How Do I File If I Move Out-of-State But Continue to Work in Massachusetts?

Generally, you must file Form 1 and Form 1-NR if you were a Massachusetts resident for a portion of the same year that you were a nonresident, and your Massachusetts gross income exceeded $8,000 for the year. This frequently happens if you moved to or from Massachusetts and received **Mass. source income** after leaving or before moving to the state. If you file both forms, you must make certain modifications to your income, deductions and exemptions.

Example

Marissa is a resident of Massachusetts at the beginning of the year. During the period of her residence, she receives $5,000 in wage income. Marissa then moves to a neighboring state and establishes residency, but continues to work in Massachusetts. After leaving the state, Marissa receives an additional $15,000 of Massachusetts source wage income. Marissa must file Form 1 and Form 1-NR because her Massachusetts gross income for the year is more than $8,000.

Can Married Taxpayers File Both Form 1 and Form 1-NR Jointly?

Married taxpayers may usually file Forms 1 and 1-NR jointly. When you are required to file both Form 1 and 1-NR, you must have the same resident and nonresident tax years to do so. In other words, you are not allowed to file both forms jointly unless each spouse is reporting income for the same resident and nonresident periods.

Example

Karl and Susan live in Rhode Island and work in Massachusetts. They move to Massachusetts on July 1, 1992 and establish residency. Since they were both nonresidents with Mass. source income from January 1 to June 30 and residents from July 1 to the end of the year, they may file Forms 1 and 1-NR jointly.

Example

Mark, a Connecticut resident, and Kim, a Massachusetts resident, both work in Massachusetts. Mark and Kim were married in July. After they were married, Mark moved to Massachusetts to live with Kim and establish residency. Mark must file a Form 1-NR, married taxpayer filing separately, for the period before he moved to Massachusetts. He must also file a Form 1, married filing separately, for the period after he moved to Massachusetts. Kim must file a Form 1, married filing separately, for the entire year. They may not file a Form 1 jointly because Mark's resident tax year is only the period after he moved to Massachusetts, while Kim was a resident for the whole tax year.

What Adjustments to Income Must I Make When Filing Both Form 1 and Form 1-NR?

When filing both Form 1 and 1-NR, you should pay special attention to the following items.

Take care not to report the same income on both returns.

Example

Cheryl moved from Vermont to Massachusetts on July 1, 1992. She worked in Massachusetts for the entire year and also had a part-time job in Vermont. She earned the following amounts from her two jobs:

	Jan. 1 - June 30	*July 1 - Dec. 31*
Mass. job	*$14,000*	*$14,000*
Vermont job	*$ 6,300*	*$ 7,000*

Cheryl reports the $14,000 earned from Massachusetts sources on Form 1-NR, Item 3, covering the first six months of 1992. On her Form 1 for the second half of the year, she reports her wages from both Massachusetts and Vermont, $21,000, in Item 2.

Remember that while you are a resident, income from all sources is subject to Massachusetts taxes. See the discussion of "Differences Between Massachusetts and U.S. Taxable Income."

Example

Lisa is a Massachusetts resident who works in Rhode Island and owns rental property in Massachusetts and Rhode Island. Lisa moves to Rhode Island in August and establishes residency. Lisa's income for the year is:

	Jan. 1 - Aug. 15	*Aug. 16 - Dec. 31*
Rhode Island job	*$17,000*	*$13,000*
Mass. rental income	*$12,000*	*$ 8,000*
R.I. rental income	*$ 6,000*	*$ 4,000*

Lisa reports her wages of $17,000 and all of her rental income on the Form 1 that she files for January 1 - August 15. She reports only the $8,000 in Massachusetts rental income for the period for which she files a Form 1-NR.

Income which is not taxable to residents is not taxable to nonresidents. See the discussion of "Differences Between Massachusetts and U.S. Taxable Income."

Example

Colleen lives in New York and works in Massachusetts. Colleen has wage income from Massachusetts sources and income from U.S. savings bonds. She moves to Massachusetts in May and establishes residency. Colleen does not report her U.S. savings bond interest on Form 1 or 1-NR because U.S. savings bond interest is not taxable in Massachusetts.

What Adjustments to Deductions Must I Make When Filing Both Form 1 and Form 1-NR?

If filing both Form 1 and Form 1-NR, you must reconcile the deduction amounts claimed on each form for the following types of deductions:

- Child under Age 15, Disabled Dependent/Spouse Care Expenses (Form 1, Item 15; Form 1-NR, Item 17)
- Dependent member of Household under Age 12 at Year End (Form 1, Item 16; Form 1-NR, Item 18)
- Alimony Paid (Form 1, Item 20; Form 1-NR, Item 20)

Example

Bob and Betty lived in Connecticut for the first three months of 1992 before moving to Massachusetts. Bob worked in Connecticut and Betty worked in Massachusetts. Betty earned $13,050 (Mass. source income) before moving, and their total income before moving was $28,400. They have one child, age 2. When completing their Form 1, they claim the "Dependent Member of Household under Age 12 at Year End" deduction in Item 16. They calculate their deduction using the following formula:

$$\frac{\textit{Days in Mass.}}{365} \times \textit{Amount of deduction} = \textit{Part-year deduction allowed}$$

$$\frac{274 \textit{ (9 months)}}{365} \times \$600 = \$450$$

To calculate the allowable deduction for a "Dependent Member of Household under Age 12 at Year End" on Form 1-NR, Item 18, Bob and Betty followed these steps: First, they subtracted the amount claimed on Form 1 from the total deduction amount.

$600 – $450 = $150

Second, nonresident taxpayers prorate certain deductions based on their ratio of Mass. source income to total income. Therefore, Bob and Betty divided the Mass. source income received while nonresidents by the total income they received while they were nonresidents.

$$\frac{\$13{,}050}{\$28{,}400} = .4595 \text{ (deduction and exemption ratio)}$$

Third, they multiplied the result in step 1 by the deduction and exemption ratio.

$150 × .4595 = $68.93

All other deductions must be directly related to Massachusetts income reported on the form. (In the case of rent paid, it must be on a principal residence located in Massachusetts.) Those deductions are:

- Amount Paid to Social Security and Medicare (FICA), Railroad, U.S., Massachusetts Retirement Systems (Form 1, Items 13 and 14; Form 1-NR, Items 15 and 16)
- Allowable Employee Business Expenses (Form 1, Item 18; Form 1-NR, Item 19)
- Rental Deduction (Form 1, Item 17; Form 1-NR, Item 21)
- Penalty on Early Savings Withdrawal (Form 1, Item 19; Form 1-NR, Item 22)

Example

Emily and Alan lived in Massachusetts for the first six months of 1992 and in Connecticut for the last six months of 1992. Alan worked in Massachusetts for the whole year and Emily worked in Connecticut for the whole year. Alan and Emily's contributions to Social Security are as follows:

	Jan. 1 - June 30	***July 1 - Dec. 31***	***Total***
Alan's contributions	*$1,025*	*$1,025*	*$2,050*
Emily's contributions	*$1,050*	*$1,250*	*$2,300*

Alan claims $1,025 as his social security deduction on the Form 1 filed for the first half of the year and Emily claims $1,050. On the Form 1-NR filed for the second half of the year, Alan claims a $975 Social Security deduction directly related to Mass. source income. Emily does not claim a social security deduction on Form 1-NR because she did not have Mass. source income. Alan only claims $975 ($2,000 – $1,025 claimed on Form 1 = $975) because the maximum allowable deduction for both forms for the year is $2,000.

What Adjustments to Exemptions Must I Make When Filing Both Form 1 and Form 1-NR?

You must reduce your total exemptions claimed on Form 1-NR by the amount of any exemptions you claimed on Form 1. Subtract the amount on Form 1, Item 31, from the total of Form 1-NR, Items 25 through 30. Then multiply the difference by Form 1-NR, Item 14g, and enter the result on Form 1-NR, Item 31.

Example

Pat and Paula lived in Massachusetts for the first six months of 1992 and in New Hampshire for the remaining six months. Pat worked in Massachusetts; Paula worked in Rhode Island for the entire year. They calculated a deduction and exemption ratio of .4415 in Item 14g. They have two dependents. The deductions Pat and Paula calculate before modification are $6,400 ($4,400 for married tax-

payers filing jointly and $1,000 for each of their dependent children). They calculated exemptions of $3,173 on Form 1, Items 24 through 30.

1.	Add Form 1-NR, Items 25 through 30		$6,400
2.	Amount from Form 1, Item 31	–	3,173
3.	Subtotal	=	3,227
4.	Ratio from Form 1-NR, Item 14g	×	.4415
5.	Total Mass. exemptions (for Form 1-NR)	=	$1,424.72

If I Might Qualify for No Tax Status, Which Form Should I Use?

You should complete Schedule NTS-L in the form that reflects your current residency status. See the section on "No Tax Status and the Limited Income Credit."

What Should I Do After Completing Both Forms?

If you owe a payment on each form, send one check for the total amount of both payments. Please do not write two separate checks. If you owe a payment on one form and are entitled to a refund on the other, combine these amounts to equal one net amount — either a payment or a refund. Write the net amount on the form reflecting your current residency status beneath Item 58 on Form 1-NR or Item 59 on Form 1.

When you have completed filling out both Form 1 and 1-NR, check the box at the beginning of each form, place the form on top that reflects your current residency status, staple the forms together and send them to Massachusetts Department of Revenue, P.O. Box 7055, Boston, MA 02204.

Example

Sarah, who is currently a Massachusetts resident, calculated that she is entitled to a refund of $27 on her Form 1 and owes a payment of $64 on Form 1-NR. She subtracts the $27 refund from the $64 payment amount and sends a check for $37 with her two forms. Since Sarah is now a Massachusetts resident, she writes the following underneath Item 59 on Form 1: "Form 1-NR — $64 payment; Form 1 — $27 refund; Check enclosed — $37."

No Tax Status and the Limited Income Credit

What Is No Tax Status?

No Tax Status is the income amount below which no Massachusetts income tax is due.

Who Is Eligible for No Tax Status?

You are eligible for No Tax Status if your Massachusetts Adjusted Gross Income (Mass. AGI) was $8,000 or less, if single, or $12,000 or less if married filing a joint return. The income calculation must include income from both resident and nonresident sources. If you qualify, you are not required to pay any 1992 Massachusetts income taxes. Married taxpayers filing separately do **not** qualify for No Tax Status.

What Is the Limited Income Credit?

The Limited Income Credit is an alternative tax calculation for taxpayers who are just above the No Tax Status threshold. The Limited Income Credit can provide a significant tax reduction for taxpayers who qualify.

Who Is Eligible for the Limited Income Credit?

If your Mass. AGI is between $8,000 and $14,000 if single, or between $12,000 and $21,000 if married filing a joint return, you may benefit from the Limited Income Credit.

Can I Qualify for No Tax Status or the Limited Income Credit If I Am Married Filing Separately?

No. If you are married, you must file a joint return in order to qualify for No Tax Status or the Limited Income Credit.

How Do I Calculate My Massachusetts Adjusted Gross Income?

Mass. AGI is not the same as taxable income. Mass. AGI, for the purpose of No Tax Status, is generally your total 5.95% income **after certain allowable deductions** plus income from interest and dividends, capital gains and income while a nonresident. Your 5.95% income may never be considered to be less than zero. The **allowable deductions** are those amounts reported on Form 1 or Form 1-NR for allowable employee business expenses, penalty on early savings withdrawal and alimony paid by you to your former spouse.

Specifically, Mass. AGI includes the following:

- wages, tips and salaries;
- business, profession, trade or farm income;
- partnership and S corporation income;
- trust income;
- royalty and REMIC income;
- Massachusetts bank interest;
- taxable pension and annuity income;
- alimony received;
- rental income;

- unemployment compensation;
- taxable IRA and Keogh distributions;
- other 5.95% income including winnings, fees, etc.
- 12% interest and dividends; and
- capital gains

Calculate your Mass. AGI by completing Schedule NTS-L included in Form 1; or Schedule NTS-L-NR included in Form 1-NR; or Form ABC, Items 28 through 35. Completing these sections is particularly important when AGI exceeds deductions and exemptions but **does not** exceed No Tax Status since a tax would otherwise be computed.

Example

Karen is a recent college graduate and worked only five months in 1992. Her income before deductions was $7,500 and she has $175 in interest from accounts in Massachusetts banks.

Since Karen's Massachusetts Adjusted Gross Income is not greater than $8,000 she is not required to pay any state income tax. After she files her Form ABC, she will receive a tax refund of $275, the amount withheld from her pay.

Example

Christina is an outside salesperson and earned $9,500 in 1992. However, she had $2,000 in allowable employee business expenses. Since her Mass. AGI is $7,500 she qualifies for No Tax Status.

Example

Mike and Joan are married and file a joint return. Their 5.95% income included wages of $11,900, Massachusetts savings bank interest of $150 and net rental income of $1,400. Their 12% income, from interest and dividends, totalled $1,600. Since no allowable deductions applied, their total Adjusted Gross Income equalled $15,050. Although No Tax Status does not apply (since income exceeded $12,000), they continue to complete Schedule NTS-L to determine their eligibility for the Limited Income Credit (Mike and Joan's income did not exceed $21,000). The tax prior to calculating the Limited Income Credit was $360. The Limited Income Credit was $55. As a result, the tax after the Limited Income Credit equalled $305.

Note: Depending on your type of income and your allowable deductions and exemptions, you may or may not derive a credit from Schedule NTS-L, even though Mass. AGI qualified you to complete it.

Can I Qualify for No Tax Status or the Limited Income Credit If I Am a Part-year Resident or Nonresident?

For part-year residents and nonresidents, Massachusetts General Laws require that Mass. AGI must be computed as if the nonresident had been a Massachusetts resident for the taxable year. In determining whether or not you qualify for No Tax Status or the Limited Income Credit, you must consider **all of your income,** including that which is not taxable in Massachusetts. You are eligible for **No Tax Status** if your combined Mass. source income and non-Massachusetts income is $8,000 or less if single, or $12,000 or less if married filing jointly. You may benefit from the **Limited Income Credit** if your combined Mass. Source Income (if a nonresident) or Mass. resident income (if a part-year resident) plus any non-Massachusetts Income is between $8,000 and $14,000 if single or between $12,000 and $21,000 if married filing a joint return.

Example

Brian is a New Hampshire resident and freelances as a graphic designer. His clients are usually based in New Hampshire; however, in 1992 he had one client in Massachusetts. His Mass. source income was $6,200 and his total income was $35,700. Brian does not qualify for **No Tax Status** since his total income is greater than $8,000.

Example

Scott and Rebecca were residents of Massachusetts for five months in 1992. Their income for that period of time was $18,500 and their total income for the year was $47,200. Filing a joint Mass. return Scott and Rebecca are not eligible for a **Limited Income Credit** since their total income is greater than $21,000.

If I File Both Form 1 and Form 1-NR Can I Still Qualify for No Tax Status or the Limited Income Credit?

If you are filing both Form 1 and Form 1-NR, complete Schedule NTS-L in the form that reflects your current residency status. It is not necessary to complete two schedules.

Example

Don lived in New Hampshire and worked in Massachusetts for the first four months of 1992. In May, Don moved to Massachusetts and continued to work at the same job. For the entire year Don earned $12,000. Don has to file both Form 1 and Form 1-NR. He reports on Form 1-NR the $4,000 he earned while a New Hampshire resident. On his Form 1 he reports the $8,000 earned while a Massachusetts resident. Since he is currently a Massachusetts resident, Don completes Schedule NTS-L for Form 1. After completing the schedule Don determines that he can claim a Limited Income Credit of $127. He enters this amount in Item 42 of Form 1.

If I Had a Short Taxable Year Am I Eligible for No Tax Status or the Limited Income Credit?

If you had a short taxable year for any reason other than being a nonresident for part of the year, you must prorate the No Tax Status threshold amounts to reflect the actual length of your taxable year.

Example

Paul was a fiscal year filer who wanted to switch to calendar year filing. Paul's fiscal year ended on June 30, 1992, so he is filing a short-year return for the period July 1 to December 31, 1992. To correctly prorate the No Tax Status threshold, he multiplies the fraction of the year for which he is filing by $8,000. Since his tax year was half the calendar year, his No Tax Status threshold is half of $8,000, or $4,000. Because Paul earned $6,000 in his short taxable year, he is not eligible for the prorated No Tax Status.

Credit for Taxes Paid to Other Jurisdictions

Are Massachusetts Residents Allowed a Credit for Taxes Paid to Other Jurisdictions?

Yes. Massachusetts residents are allowed a credit for taxes due to any other state, territory or possession of the United States, the Dominion of Canada or any of its provinces, on income which is subject to Massachusetts income tax.

What Are the Restrictions on the Credit?

This credit is subject to the following restrictions:

- the amount of tax due claimed as a credit may not include any applicable interest and penalty charges due to the other jurisdiction;
- the amount of tax due claimed as a credit must be reduced by any federal credit allowable on the resident's U.S. income tax return. Federal tax credits are calculated on U.S. Form 1116;
- the total credit is the lesser of the following:
  (i) the amount of taxes due to other jurisdictions reduced by any federal credit allowable; or

  (ii) the portion of Massachusetts tax due on the gross income that is taxed to the other jurisdiction.
- the credit may not include any city or county taxes paid to another jurisdiction.

How Do You Calculate Your Allowable Credits?

Total credits for taxes paid to other jurisdictions are calculated on Massachusetts Schedule F. This schedule is included in your Form 1 booklet. Taxpayers who have both 5.95% and 12% income which was taxed by another jurisdiction are required to file a separate Schedule F for each of these types of income. When completing a Schedule F for 12% income, you must substitute "12%" in lieu of "5.95%" in Items 1, 2 and 4. You must also substitute Form 1, Item 39 for Form 1, Item 33 in Schedule F, Item 4. When using Schedule F to calculate a credit for 12% capital gains income, you must also enter total capital gains calculated as if they were earned in Massachusetts. Remember to attach a copy of your completed tax return(s) filed in other jurisdictions.

Note: Income amounts subject to tax in another jurisdiction and entered in Item 1 of Schedule F must be calculated as if they were subject to Massachusetts tax rules. For example, a long-term capital gain taxed in a jurisdiction which does not have a 50% capital gain deduction must be recalculated using that deduction.

Solar and Wind Energy Credit

What Is the Energy Credit?

The Massachusetts energy credit is a tax credit equal to 15% of the net expenditure for renewable energy source property or $1,000, whichever is less.

Who Is Eligible to Take the Energy Credit?

You may take advantage of the Massachusetts energy credit if you are an owner or tenant of residential property located in the Commonwealth. The property must be the principal residence of the taxpayer. Summer or vacation homes, or renewable energy source property placed in a rental unit by a landlord, **do not qualify** for the credit. Joint owners, who occupy residential property as their principal residence, share any credit available to the property in the same proportion as their ownership interests. In the case of new construction, the credit is available to the original owner-occupant. Any taxpayer who is a dependent of another taxpayer is not eligible for the energy credit.

What Is Qualified Renewable Energy Source Property?

For purposes of the energy credit, qualified renewable energy source property is property which transmits or uses either of the following:

- solar energy, or any other form of renewable energy, for heating or cooling, for providing hot water or for providing electricity to the taxpayer's principal residence. Examples of solar energy items include collectors, rockbeds and heat exchangers.
- wind energy used to generate electricity or mechanical forms of energy for nonbusiness purposes. Examples of wind energy items include windmills, wind-driven generators and power conditioning and storage devices.

The taxpayer claiming the credit must be the first one to use property of the types described above. The property must also:

- be expected to last at least five years; and
- meet the performance and quality standards prescribed by the Commissioner of Revenue in Regulation 830 CMR 62.6.1.

What Costs Are Not Eligible for the Credit?

The following energy conservation costs **are not eligible** for the Massachusetts energy credit:

- heating and cooling systems, other than solar and wind, that supplement renewable energy source equipment;
- expenditures for conservation items such as insulation, storm or thermal windows or doors, caulking or weatherstripping;
- expenses related to heat pumps (air and water), wood burning stoves or furnaces;
- energy storage mediums for non-essential functions, such as swimming pools and greenhouses;
- materials and components that have a structural function or are structural components.

When Is the Energy Credit Taken?

The energy credit is taken in the taxable year in which the qualified energy property was purchased or installed. If your energy credit amount exceeds your tax for the taxable year, you may carry over the excess to any one or more of the next three succeeding taxable years. The energy credit may not exceed your total tax due for the applicable year. To take the energy credit, you must complete and file Massachusetts Schedule EC.

Example

Joshua had a solar heating energy system installed in his principal residence during 1992. The total expenditure for the system was $2,500. Completing Schedule EC, Joshua calculates that his allowable energy credit for 1992 will be $375 (2500 x 15%). On his 1992 Massachusetts Form 1, Joshua calculates his total

tax to be $928. Because his energy credit amount is less than his total tax amount, Joshua can take the entire $375 amount as his 1992 energy credit.

Lead Paint Credit

What Is the Lead Paint Credit?

The Lead Paint Credit is a credit provided for removing or covering materials on residential premises in Massachusetts that have been established as containing dangerously high levels of lead. The credit for each residence is equal to the cost of the deleading expenses, or $1,000, whichever is less.

What Types of Properties Qualify for the Lead Paint Credit?

Only residential premises qualify for the Lead Paint Credit. Examples of qualifying premises are:

- single family homes;
- individual units in an apartment building;
- condominium units; and
- individual units in multi-family homes.

Who Is Eligible to Take the Lead Paint Credit?

The Lead Paint Credit may be taken only by the owner or tenant of the qualified premises. The credit is allowed only to those taxpayers who personally pay for the deleading. If a tenant voluntarily shares with the owner the cost of deleading a unit, the credit may be shared. However, the total credits claimed may not exceed $1,000 for each unit.

What Type of Work Does the Credit Cover?

The Lead Paint Credit applies only for work done in actually deleading contaminated areas. Deleading refers to the removal or covering of contaminated paint, plaster or other materials that could readily be accessible to children under six years of age. Only costs that are incurred for legally required deleading qualify for the credit. Costs incurred in repainting or refinishing deleaded surfaces are not eligible for the tax credit.

How Do You Take the Lead Paint Credit?

To take the Lead Paint Credit, the following steps must be completed:

- the residential unit must be inspected by an inspector who is registered or licensed by the Department of Public Health (Childhood Lead Poisoning Prevention Program). The inspector must establish the presence of dangerous lead levels in violation of the lead paint law in the residence;
- the contaminated areas must be deleaded by a deleader who is certified or licensed by the Department of Labor and Industries in a manner prescribed by regulation; and
- the property must be reinspected by a registered or licensed inspector who certifies that all materials on the premises that contained dangerous levels of lead in violation of the lead paint law have been properly deleaded. This certification is made on Massachusetts Form CLP, Certificate of Lead Paint Covering or Removal.

When Are Taxpayers Entitled to Take the Lead Paint Credit?

Taxpayers are entitled to take the Lead Paint Credit in the taxable year in which

the certification on Form CLP is issued or in the year in which the payment for the deleading is made, whichever is later.

After certifying that a property has been properly deleaded, the inspector must file Form CLP with the Massachusetts Department of Revenue. To take the Lead Paint Credit, taxpayers must complete and file Massachusetts Schedule LP, Credit for Removing or Covering Lead Paint on Residential Premises. A copy of Form CLP must also be attached to Schedule LP of the Massachusetts income tax return of the taxpayer(s) claiming the Lead Paint Credit.

What If My Lead Paint Credit Is Larger Than My Tax Liability?

If your Lead Paint Credit is larger than the amount you owe in Massachusetts income taxes for the year, the balance may be carried over into the next tax year. Taxpayers may carry over unused portions of their original credit for up to five years.

Who Can I Contact for Further Information on Lead Paint Removal, Inspection Requirements and the Lead Paint Credit?

For further information on how to find a registered or licensed lead paint inspector, you may contact the Department of Public Health at (617) 522-3700, ext. 177 or ext. 188 or toll-free in-state at 1-800-532-9571, or the Citizen Information Service, Office of the Secretary of State at (617) 727-7030 or toll-free in-state at 1-800-392-6090. For further information about how to find a certified or licensed deleader, you may contact the Department of Labor and Industries at (617) 727-1933. For further information on the Lead Paint Credit, you may contact the Department of Revenue at (617) 727-4545 or toll-free in-state at 1-800-392-6089.

Universal Health Care Credit

What is the Universal Health Care Credit?

The Universal Health Care Credit is a tax credit provided to certain business employers who provide health care benefits to their employees who did not do so previously. The credit is equal to 20% of the value of premiums paid in the first year the credit is taken, and 10% of the value of premiums paid in the second year.

When Can the Credit Be Taken?

The credit is only available for tax years beginning on or after January 1, 1990, and ending on or before December 31, 1992. The credit must be applied to **two consecutive tax years** with the 20% credit to be taken in the first year and 10% in the second year. If, for example, you took the 20% health care credit in 1991, you may claim the 10% credit only for 1992. A business would not be eligible for a 20% credit in 1990 and a 10% credit in 1992.

Who Is Eligible to Take the Universal Health Care Credit?

Any small business employer subject to tax under MGL Ch. 62 or Ch. 63 is eligible for the Universal Health Care Credit. A business includes a profession or trade operated in the form of a partnership, sole proprietorship, corporation, trust or S corporation.

What Requirements Must My Business Meet to Be Eligible to Take the Universal Health Care Credit?

- The business must employ between 1 and 50 full-time equivalent employees, unrelated (not spouse, father, mother or child) to the owners or partners, and calculated on an average annual basis;

- For three consecutive years (beginning after December 31, 1984 and before April 21, 1988) the business did not pay premiums for a health insurance plan covering any of its employees;
- The business must pay at least 50% of the total cost of the premiums in each year beginning after the three year period (including any year in which a credit is taken);
- The health insurance plan must be available to all full-time employees; and
- A new business whose first tax year begins after April 20, 1988 must pay at least 50% of the premiums for a health insurance plan for employees, starting in its **first** tax year.

Example

The W Company began providing health insurance coverage to its full-time employees in 1991. The W Company had never before provided a health insurance plan to any of its employees. The company is a calendar year filer and pays 80% of the health plan provided to its employees. The total cost of health care coverage for the W Company was $100,000 in 1991 and $110,000 in 1992. The company claimed a Universal Health Care Credit of 20% in 1991, therefore it will be limited to claiming a 10% credit in 1992. The company has calculated a credit of $8,800 for 1992 as follows:

Schedule UHC
Universal Health Care Credit

1992
Massachusetts Department of Revenue

Please read the instructions below before completing this form. All entries must be printed or typed except for signature.

Name(s): The W Company

Federal Identification or Social Security Number: 123 - 456 - 789

1 How many full-time equivalent employees does this business employ on an average annual basis? (see instructions) 50

2 Is this health insurance plan available to ALL the full-time **Massachusetts** employees of this business? ☑ Yes ☐ No

3 List the three consecutive tax years* this business did **NOT** pay any premiums for a health insurance plan covering any of its employees. (See instructions if you are a new business whose first tax year begins after April 20, 1988)

a. Tax year beginning on 1 / 1 / 86 and ending on 12 / 31 / 86.
b. Tax year beginning on 1 / 1 / 87 and ending on 12 / 31 / 87.
c. Tax year beginning on 1 / 1 / 88 and ending on 12 / 31 / 88.

* beginning after December 31, 1984 and before April 21, 1988.

4 Enter the total cost of premiums for a health insurance plan for the **Massachusetts** employees in the tax year(s) beginning after the three year period in Item 3 and the amount of premiums paid by the business:

1988 Tax Year (if applicable)	**4a**	Total Cost	–
	4b	Total Paid	–
1989 Tax Year (if applicable)	**4c**	Total Cost	–
	4d	Total Paid	–
1990 Tax Year (if applicable)	**4e**	Total Cost	–
	4f	Total Paid	–
1991 Tax Year (if applicable)	**4g**	Total Cost	100,000
	4h	Total Paid	80,000
1992 Tax Year	**4i**	Total Cost	110,000
	4j	Total Paid	88,000

5 Allowable health care tax credit for 1992. Enter:
- 10% of Item 4j here if your business claimed the Mass. health care tax credit in 1991; 8,800
- 20% of Item 4j here if your business is claiming the health care tax credit for the first time.

How Do I Calculate the Number of Full-time Equivalent Employees on an Average Annual Basis?

To calculate the average number of full-time emloyees the company must determine how many full-time equivalent employees it employs as of the 12th day of each month in the tax year. The number of employees for each month are added and the total is divided by 12 to arrive at the annual percentage. A full-time equivalent employee is either 1) an employee who works full-time or 2) two or more employees whose combined hours equal the employer's full-time standard. An employer's full-time standard cannot exceed 40 hours per week.

Example

The G Company is a Massachusetts manufacturing company. For the six-month period between January and June of 1992 the company employed four full-time employees who each worked the company's full-time standard 40-hour week, and

two part-time employees who each worked 20 hours per week. For the next six-month period between July and December 1992 the company employed six full-time employees and four part-time employees (who each worked 12 hours per week for a total of 48 hours per week).

The G Company has an annual total of 72 employees, calculated as follows:

$$\begin{array}{ll} \text{Jan. - June: } 5 \times 6 = & 30 \\ \text{July - Dec.: } 7 \times 6 = & \underline{42} \\ & 72 \end{array}$$

Therefore, the G Company has six full-time equivalent employees calculated on an average annual basis by dividing the annual total of employees (72) by the number of months in its tax year (12).

Qualifying for More Than One Type of Credit

If you qualify to take more than one type of credit on your income tax return, be sure to complete all necessary schedules and attach them to your return. Because each of the credits discussed in this section has a different carryover life, credits have been given priority in the following order to maximize their potential usefulness to taxpayers:

- Limited Income Credit
- Credit for Taxes Paid To Other Jurisdictions
- Universal Health Care Credit
- Energy Credit (3-year carryover)
- Lead Paint Credit (5-year carryover)

By ordering the credits in this manner, taxpayers are able to best obtain the maximum benefit of their available credits over the potential life of the credit.

Estimated Tax Payments

Who Must Make Estimated Tax Payments?

In general, you are required to pay at least 80% of your annual income tax liability before filing your annual return. You can fulfill this requirement through withholding and by making estimated tax payments on income that is not subject to withholding. If you expect to receive taxable income which will result in more than $200 in tax and upon which there is no withholding, you must make estimated tax payments. The amount of estimated tax is equal to your estimated amount of total tax minus the estimated amount of withholding for the taxable year.

Income which is not subject to withholding includes, but is not limited to, the following:

- salaries and wages from employment not subject to Massachusetts withholding;
- unemployment compensation;
- dividends and interest;
- alimony received;
- gains from the sale or exchange of capital assets;
- income from a trade, business, profession, partnership or S corporation;
- income from an estate or trust not taxed directly in Massachusetts;
- income from certain pensions;
- gambling winnings;
- rental income; and
- income from illegal sources.

May a Husband and Wife Make Joint Payments?

Yes. As husband and wife you may make joint payments of estimated tax as long as you are married at the time when the payments are due and not separated by a decree of divorce or separate maintenance. If you choose to make such joint estimated tax payments but do not file a joint annual return, your estimated tax payments may be attributed to one or both of you, apportioned however you please.

What Form Should I Use to Make Estimated Tax Payments?

If you're filing Forms 1, 1-NR or ABC you should use Massachusetts Form 1-ES to make estimated tax payments. DOR sends preaddressed forms to most people who are required to make estimated payments. Using these forms ensures faster and more accurate processing.

Are There Any Alternatives to Filing Estimated Taxes?

Yes. Instead of making estimated payments, you may request that your employer(s) withhold additional amounts from your wages or salary to cover those taxes on income not subject to withholding. You may make such a request on the Massachusetts Employee Withholding Certificate, Form M-4.

Example

Nancy works for an accounting firm and has withholding tax deducted from each paycheck. Nancy also receives $16,000 per year from rental property she owns. Rental income is not subject to withholding. For this reason, she will be required to pay estimated taxes unless she requests that her employer withhold an additional sum to compensate for the income tax she'll owe on her rental income.

Rental income is taxed at 5.95%. Nancy, therefore, owes $952 in annual estimated taxes on her rental property income of $16,000. She completes a Massachusetts Employee Withholding Exemption Certificate, Form M-4, to request that her em-

ployer withhold an extra $40 per paycheck (she is paid twice per month) instead of making estimated payments.

May I Apply This Year's Refund to Next Year's Estimated Tax Due?

Yes. You may apply all or any part of your 1992 income tax refund to your estimated account for the following tax year. You may do this on Form 1, Item 57; Form 1-NR, Item 56; or Form ABC, Item 48. If you choose to apply your refund to your estimated account, you need not submit a Form 1-ES payment voucher until you are making a payment.

Example

Chris worked in a restaurant and had $500 more than he owed in Massachusetts income taxes for 1992 withheld from his pay. He was therefore entitled to a refund equal to that amount. However, he had recently sold his vacation home and received a $10,000 long-term capital gain upon which there was no withholding. Chris decided to apply $480 of his overpayment toward the estimated tax payments he would be required to pay in 1993 on the $10,000 capital gain.

To do this, he entered in Item 57 on Form 1 the amount of his overpayment he wished to apply against the following year's estimated taxes (i.e. $480). He then entered the $20 balance of his overpayment in Item 58 on Form 1.

When Are Payments Due?

Calendar year taxpayers (January 1–December 31) must file the first payment voucher, Form 1-ES, on or before April 15 of the taxable year. The estimated tax may be paid in full with the first payment voucher or in four installments on or before April 15, June 15, and September 15 of the taxable year and January 15 of the following year. A completed voucher must accompany each payment.

Fiscal year taxpayers must file their first payment voucher, Form 1-ES, on or before the 15th day of the 4th month of the fiscal year. The estimated tax may be paid in full with the first payment voucher or in four installments on or before the 15th day of the 4th, 6th and 9th months of the fiscal year and the 15th day of the 1st month of the following fiscal year.

What If My Tax Liability Changes During the Year?

Even though you may not expect to owe estimated tax payments at the beginning of the year, your income or exemption(s) may change during the year so that you are subsequently required to make such tax payments. If you must make estimated tax payments because of a change in your income or deductions after the due date of the first payment voucher, you should follow the schedule below:

Date of Change in Income or Deductions	Due Date of First Payment Voucher	Remaining Estimated Payment Date
Between April 1 and May 31	*June 15*	*Sept. 15, January 15 of the following year*
Between June 1 and August 31	*September 15*	*January 15 of the following year*
September 1 and December 31	*January 15 of the next taxable year*	*None*

What Is an Underpayment Penalty?

If you haven't paid at least 80% of your annual tax liability through estimated payments and/or withholding, you may be liable for an addition to tax, or underpayment penalty. For underpayments occurring before 1993 the underpayment penalty is assessed at the rate of 18% per year on the amount of the underpayment for the period of the underpayment. For underpayments occurring on or after January 1, 1993 the underpayment penalty is based on the current federal short-term interest rate plus four percentage points. For further information

regarding the current interest rate see the section titled "Interest Rate Change." You should use Massachusetts Form M-2210 to calculate the amount of the addition to tax. The 80% requirement is reduced to 66⅔% if you receive two-thirds of your income from fishing or farming.

Example

Heather owned a clothing store in Boston. Her taxable business income after deductions and exemptions was $60,000 in 1992, all of which was 5.95% income. However, Heather neglected to remit the required estimated income tax installment payments. She sent in only one estimated payment voucher with a check for $750 on September 15, 1992.

Since Heather's total tax liability equals $3,569, the necessary 80% of the total equals $2,855. Not having paid that amount, Heather is subject to an underpayment penalty whose exact amount can be determined using Form M-2210.

Are There Any Exceptions to the Underpayment Penalty?

Yes. If you qualify for one of the following exceptions, no underpayment penalty is assessed:

Exception 1 — The tax shown on the annual return after credits and withholding is less than $200

Example

Sam is a Massachusetts resident employed as an engineer for a large telecommunications company. He also receives income in the form of dividends from stock in various corporations. Withholding is paid on the salary he receives as an engineer, but not on the dividends he receives from his corporate shares. Over the course of the year, Sam has earned $8,000 in stock dividends. Sam is also eligible for an $825 Energy Credit.

While Sam would have owed estimated taxes equal to 12% of his $8,000 of dividend income, or $960, his energy credit of $825 reduces his tax liablity to $135.

Exception 2 — You are a qualified farmer or fisherman and pay the full amount of your annual taxes on or before the first day of the third month of the next taxable year.

Example

Joe owns a commercial fishing business on Cape Cod from which he receives more than two-thirds of his total annual income. Though he hasn't paid any estimated or withholding taxes by January 15 of the following tax year, he did pay his total tax liability on February 22.

Since Joe earns more than two-thirds of his total annual income from his commercial fishing business, he is recognized by the state as a qualified fisherman. Qualified fishermen and farmers are given until the first day of the third month of the following tax year to pay their total tax liability. Joe, therefore, would not be assessed an underpayment penalty since he paid before March 1.

Exception 3 — You are a Massachusetts resident and were not liable for taxes during the previous taxable year, and your taxable year was 12 months long.

Example

Elizabeth graduated from college and began her own art appraisal business. Because she was a full-time student, she did not work during her last year of school, nor did she have any Massachusetts tax liability that previous tax year. Because Elizabeth owed no taxes last year, the underpayment penalty does not apply to her situation.

Exception 4 — Your estimated payments and withholding equals or exceeds your total tax due for the previous taxable year, and that taxable year was 12 months long.

Example

Warren receives dividends which fluctuate in value from year to year. His 1991 tax was $5,000, and he expects it to rise by 25% in 1992 due to increasing returns on his investment. Using the estimated tax vouchers on the dates prescribed by the payment schedule, Warren makes estimated payments of $5,000. Late in the year, when he sells a block of stock whose value had risen sharply, he enjoys an unexpected windfall profit.

As a result of this sudden increase in income, his estimated tax also rises. The $5,000 of estimated taxes he has paid equals only 65% of his 1992 tax liability. He is **not** subject to any underpayment penalty, however, since the amount he paid equalled his previous year's tax liability.

A waiver of the underpayment penalty is also available for one or more installments if:

- underpayment was a result of casualty, disaster or unusual circumstances; or
- you retired after reaching age 62 or became disabled during the taxable year for which the payments were due or during the taxable year preceding the year for which the payments were due **and** the underpayment was due to reasonable cause and not willful neglect.

What Is Annualization of Income?

Annualization of income is a method of filing estimated taxes designed for people who earn or receive income at uneven rates over the course of the year. Rather than paying the estimated annual income tax payments in four equal portions, you may choose instead to pay varying amounts of quarterly taxes in proportion to the amount of income you've actually received so far that year. By reapportioning the amount of tax due each quarter, the annualization of income method can be understood as another exception to the underpayment penalty rule. Taxpayers who wish to annualize to reduce or eliminate their underpayment penalty should complete Form M-2210A.

Example

John Taxpayer estimated that his taxable business income (5.95% income) after deductions and exemptions from his Newburyport art supply business would be $38,000. He estimated that his tax would be $2,260. His return for the prior year showed a tax of $3,460. Based on his estimate, John's estimated tax payment for the year was $1,808 ($2,260 x 80%). Divided into four equal installments of 25%, each payment amount was $452. Over the course of the year, John paid this amount with each quarterly payment voucher from Form 1-ES.

On April 15 of the following year, however, when filing his return, John determines that his actual taxable income was $58,000. His total tax on this amount was $3,450. This income level required quarterly payment amounts of $690 to avoid underpayment penalties. Because his income for the year was earned unevenly, he decides to annualize his income for each of the payment periods to adjust his underpayment amounts. Since he had no 12% income, John figures his 5.95% taxable income for each period.

In completing the annualized installment worksheet as shown on the next page, John determines that his taxable 5.95% income for the first payment period (1/1 – 3/31) was $9,000. Multiplied by the first annualization amount (4), John's annualized income for the first payment period is $36,000 ($9,000 x 4). Checking Form 1 Tax Table 1, John figures that the tax on $36,000 is $2,141. Multiplying $2,141 by the 20% applicable percentage for the first payment period, John's first installment payment using the annualized income method will be $428.20.

John determines that his taxable 5.95% income for the second payment period (1/1 – 5/31) was $15,000. $15,000 times the annualization amount of 2.4 equals $36,000. The tax on $36,000 is $2,141. John's annualized income installment for the second payment period is $428.20. This is $856.40 ($2,141 times the applicable percentage of 40%) minus $428.20 (the estimated tax due under the annualized installment method for the first payment period).

John determines that his taxable 5.95% income for the third payment period (1/1 - 8/31) was $30,000. $30,000 times the annualization amount of 1.5 equals an annualized income of $45,000. From the tax tables, John's tax is $2,676. John's annualized income installment for the third period is $749.20. This is $1,605.60 ($2,676 times the applicable percentage of 60%) minus $856.40 (the accumulated estimated tax due under the annualized installment method by the second payment period).

Finally, John determines that his taxable 5.95% income for the fourth payment period (1/1 - 12/31) was $58,000. The tax table amount on $58,000 is $3,450. The applicable percentage for the fourth period is 80%. John's annualized income installment is $1,154.40. This is $2,760 ($3,450 times 80%) minus $1,605.60 (the accumulated estimated tax John paid under the annualized installment method for the first three payment periods).

Having completed the worksheet, John transfers the amounts in Item 20 to Item 7 of Form M-2210 and calculates his underpayment penalties, if any, from those figures.

When John pays his tax with his return on April 15, he saves $54.80 on Form M-2210 underpayment penalties by using the annualized installment method rather than the regular installment method.

Annualized Income Installment Worksheet

PAYMENT PERIOD ►	1/1 - 3/31	1/1 - 5/31	1/1 - 8/31	1/1 - 12/31
1. Taxable 5.95% Income each period	9,000	15,000	30,000	58,000
2. Annualization Amount	4	2.4	1.5	1
3. *Multiply Item 1 by Item 2*	36,000	36,000	45,000	58,000
4. Tax on amount in Item 3 (from Form 1 Tax Table) if over $80,000, multiply by .0595	2,141	2,141	2,676	3,450
5. Taxable 12% Income each period	0	0	0	0
6. Annualization Amount	4	2.4	1.5	1
7. *Multiply Item 5 by Item 6*	0	0	0	0
8. Tax on amount in Item 7 (from Form 1 Tax Table) if over $80,000, multiply by .12	0	0	0	0
9. Total Tax. *Add Items 4 and 8*	2,141	2,141	2,676	3,450
10. Total Credits	0	0	0	0
11. Total tax after credits. *Subtract Item 10 from Item 9*	2,141	2,141	2,676	3,450
12. Applicable Percentage	20%	40%	60%	80%
13. *Multiply Item 11 by Item 12*	428.20	856.40	1,605.60	2,760
14. Enter the combined amounts of Item 20 from all preceding periods		428.20	856.40	1,605.60
15. *Subtract Item 14 from Item 13.* If Less Than "0" enter "0"	428.20	428.20	749.20	1,154.40
16. Divide Item 6 of Form M-2210 by 4 and enter the result in each column	690	690	690	690
17. Enter the amount from Item 19 of this worksheet for the preceding column		261.80	523.60	464.40
18. *Add Items 16 and 17*	690	951.80	1,213.60	1,154.40
19. If Item 18 is more than Item 15, subtract Item 15 from Item 18. Otherwise, enter "0" .	261.80	523.60	464.40	0
20. Enter the smaller of Item 15 or Item 18 here and on Form M-2210, Item 7	428.20	428.20	749.20	1,154.40

Example of Completed Form M-2210

This section illustrates a fictitious tax situation for a taxpayer subject to a penalty for underpayment of estimated tax.

Valerie owns a restaurant in Boston. Her taxable income after deductions and exemptions was $75,000 in 1992, all of which was 5.95% income. However, Valerie neglected to remit the required estimated income tax installment payments. She pays all of her tax when she files her return on April 15th, 1993.

Since Valerie's total tax liability equals $4,461, the necessary 80% of the total equals $3,569. Since she did not pay that amount, Valerie is subject to an underpayment penalty whose exact amount can be determined using Form M-2210. She calculates her underpayment penalty as follows:

Form M-2210
Underpayment of Massachusetts Estimated Income Tax

1992
Massachusetts Department of Revenue

Attach this form to the back of your income tax return. Please print in ink or type.

Name(s) as shown on page 1 of return	Social Security or U.S. Tax Identification No.
Valerie Taxpayer	123 | 45 | 6789

Exceptions to the Underpayment Penalty

You may qualify for an exception to the underpayment penalty if:

☐ Your 1992 income tax due after credits and withholding is less than $200.
☐ You are a farmer or fisherman filing and paying your full amount due on or before March 1, 1993.
☐ You were a resident of Massachusetts for 12 months and not liable for taxes during 1991.
☐ Your estimated payments and withholding equal or exceed your 1991 tax due (where taxable year was 12 months and a return was filed).

Part 1. Required Annual Payment

1 1992 tax (from Form 1, Item 41; Form 1-NR, Item 41; Form 2, Item 54; Form ABC, Item 27; or Form 3F)	4,461
2 Total credits (from Form 1, Item 44; Form 1-NR, Items 42, 43 and 44; Form 2, Item 55; or Form ABC, Item 35)	—
3 Balance. *Subtract Item 2 from Item 1*	4,461
4 Enter 80% of Item 3 or 66⅔% of Item 3 if you are a qualified farmer or fisherman	3,569
5 Enter 1991 tax liability after credits (from 1991 return) (see instructions)	3,900
6 Enter the smaller of Item 4 or Item 5	3,569

Part 2. Figuring Your Underpayment

	Installment Due Dates			
	(a) April 15, 1992	(b) June 15, 1992	(c) Sept. 15, 1992	(d) Jan. 15, 1993
7 Divide the amount in Item 6 by the number of installments required for the year. Enter the result in the appropriate columns	892.25	892.25	892.25	892.25
8 Estimated taxes paid and taxes withheld for each installment	0	0	0	0
9 Overpayment of previous installment		—	—	—
10 Total. *Add Item 8 and Item 9*	0	0	0	0
11 Overpayment. *Subtract Item 7 from Item 10*	—	—	—	—
12 Underpayment. *Subtract Item 10 from Item 7*	892.25	892.25	892.25	892.25

Part 3. Figuring Your Underpayment Penalty

13 Enter the date you paid the amount in Item 12 or the 15th day of the 4th month after the close of the taxable year, whichever is earlier	4/15/93	4/15/93	4/15/93	4/15/93
14 Number of days from the due date of installment to the date shown in Item 13	365	304	212	90
15 Number of days in Item 14 after 4/15/92 and before 1/1/93	260	199	107	
16 Number of days in Item 14 after 12/31/92 and before 4/16/93	105	105	105	90
17 Underpayment in Item 12 × (Number of days in Item 15 ÷ 365) × 18%	114.40	87.56	47.08	
18 Underpayment in Item 12 × (Number of days in Item 16 ÷ 365) × 8%	20.53	20.53	20.53	17.60
19 Penalty. *Add all amounts shown in Items 17 and 18.* Enter this amount on Item 59 of Form 1; Item 58 of Form 1-NR, Item 66 of Form 2; Item 50 of Form ABC; or Form 3F				328.23

Example of Completed Form 1

This section illustrates a fictitious tax situation for a married couple filing a 1992 Massachusetts Form 1.

Introduction

Peggy and Michael Murray are married and residents of Massachusetts. Peggy and Michael have two children, both of whom are enrolled in a child care program at a nearby school. Peggy is a partner in a software design business, and Michael is employed as an editor at a Boston publishing house.

Before beginning their Form 1, Peggy and Michael complete their U.S. Form 1040. They complete their U.S. return first because it contains information that will help them complete their Massachusetts return. Peggy and Michael also examine the chart in the Form 1 instructions to determine if they can use the shorter, simpler, Form ABC. After examining the chart, they determine that they must file Form 1.

Name, Address and Filing Status

Peggy and Michael first remove the forms from the Form 1 booklet they received in the mail and verify that the information on the address label is correct. They attach this label to the copy of the form that they file with the Department of Revenue (DOR). They will complete the second copy of the form first, make any necessary corrections, and copy their final calculations onto the form that they will send to DOR. They will keep the extra copy for their records.

The Murray's decide to use the whole dollar method of filing and check that box. They also check the box for Married Filing a Joint Return in Item 1.

Form 1
Massachusetts Resident Income Tax Return **1992**

Please print in ink or type. Attach additional statements if more space is needed.

For the year January 1–December 31, 1992 or other taxable year beginning 1992, ending 19

001 ******* CAR-RT SORT ** CR05
MICHAEL MURRAY 012-34-5678*4
PEGGY MURRAY 901-23-4567*3
123 ANY STREET
ANYTOWN MA 02345

Your occupation(s): *Editor*
Your Social Security number
Spouse's occupation(s): *Software Designer*
Spouse's Social Security number
City/Town/Post Office | State | Zip

Reminder: If you are filing a joint return, failure to include both Social Security numbers will delay the processing of your return

DOR and the IRS routinely share computer tapes and audit results. Differences, other than those allowed under state law, will be identified and may result in audit or further investigation.

☑ Check box if you are using the whole-dollar method
☐ Check box if your name or address has changed since 1991.
☐ Check box if you are filing both Form 1 and Form 1-NR

Filing Status

1 ☐ Single
☑ Married filing joint return (Both **must** sign return on back)
☐ Married filing separate return
(Enter full name and Social Security number of spouse)

5.95% Income

Peggy and Michael are now ready to complete the first section of their Form 1, 5.95% Income. They begin by entering Michael's salary of $37,000 in Item 2. This information is found in the state wage total of Michael's Form W-2.

Peggy earned net income of $38,000 from her share of a business in which she is a partner. Because she is involved in a partnership, Peggy completes Massachusetts Schedule E, Part II and enters the total from that schedule in Item 7.

Michael also had trust income of $2,500 during the year. To report this income, Michael completes Schedule E, Part III and transfers the amount from Schedule E, Part III, Item 9 to Item 8 of Form 1.

Schedule E, Part II: Income or (Loss) from Partnerships and S Corporations
(Attach copy of U.S. Schedule E and U.S. Form 8582)

1	Partnership or S corporation income or (loss) (from U.S. Schedule E, Part II, line 31) (see above)	►1	38,000 | 00
2	Massachusetts differences, explain:	►2	—
3	Massachusetts adjusted partnership and S corporation income or (loss). *Combine Items 1 and 2*	3	38,000 | 00
4	12% interest and dividends included in Item 3 (for Massachusetts Schedule B, Item 3) ►4 —		
5	Interest from Massachusetts banks included in Item 3 (for Form 1, Item 11a) ►5 —		
6	Subtotal. *Add Items 4 and 5*	6	0
7	Total income or (loss) from partnerships and S corporations. *Subtract Item 6 from Item 3.* Enter here and on Form 1, Item 7	7	38,000 | 00

Schedule E, Part III: Income or (Loss) from Grantor-type Trusts and Non-Massachusetts Estates and Trusts (Attach copy of U.S. Schedule E)

1	Estate and trust income or (loss) (from U.S. Schedule E, Part III, line 36)	►1	2,500 | 00
2	Massachusetts differences, explain:	►2	—
3	Massachusetts adjusted trust and estate income or (loss). *Combine Items 1 and 2*	3	2,500 | 00
4	Estate or nongrantor-type trust income taxed on Massachusetts Form 2, if included in Item 3	►4	—
5	Grantor-type trust and non-Massachusetts estate and trust income. *Subtract Item 4 from Item 3*	5	2,500 | 00
6	12% interest and dividends in Item 5 (for Massachusetts Schedule B, Item 3) ►6 —		
7	Adjustments of 5.95% income (attach statement — see instructions) ►7 —		
8	Subtotal. *Add Items 6 and 7* 8 0		
9	Income or (loss) from grantor-type trusts and non-Massachusetts estates and trusts. *Subtract Item 8 from Item 5.* Enter here and on Form 1, Item 8	9	2,500 | 00

Peggy and Michael also had $300 of interest from the First Bank of Anytown Massachusetts. Because the interest is from a Massachusetts bank, it is taxed at the 5.95% rate instead of the 12% rate that applies to other interest. To complete Item 11, Peggy and Michael enter the name of the bank and the amount of interest earned. In Item 11a they enter the total interest earned from their Massachusetts bank. Since the Murray's are filing a joint return, they enter their interest exemption of $200 in Item 11b. After subtracting Item 11b from 11a they enter the $100 result in the right hand column for Item 11.

To complete the calculations for their 5.95% income, Peggy and Michael add the amounts in Items 2 through 11 and enter the total in Item 12, Total 5.95% Income. Their total 5.95% income is $77,600.

Deductions

Michael refers to his Form W-2 to determine the amount of Social Security (FICA) that he paid for the year. Since Michael paid more than the maximum allowable deduction of $2,000, he enters his maximum $2,000 deduction in Item 13. To complete Item 14, Peggy refers to U.S. Schedule SE, to determine the amount of Social Security Self-Employment Tax she paid during 1992. Peggy is also limited to the maximum deduction of $2,000, which she enters in Item 14.

To determine their allowable 1992 child care deduction in Item 15, Peggy and Michael complete the worksheet in the instructions. This worksheet takes into account the differences between the Massachusetts and federal child care rules. After completing the worksheet, Peggy and Michael calculate the amount of their deduction to be $2,400. They enter this amount in Item 15.

Since the Murrays do not qualify for any further deductions, they add Items 13 through 20 and enter their total deductions, $6,400, in Item 22.

To arrive at their 5.95% Income after deductions, Peggy and Michael subtract Item 22 from Item 12. They enter the $71,200 result in Item 23.

Exemptions

Since they are filing a joint return, the Murray's are entitled to a personal exemption of $4,400 in Item 25. They are also entitled to an exemption of $1,000 for each dependent that they claimed on their federal return. The Murray's claimed their two children on their U.S. Form 1040, so they enter the number "2" in the small box in Item 26. They then multiply the amount in the box by $1,000 and enter $2,000 in the right hand column for Item 26. They add Items 24 through 30 and enter their total exemptions of $6,400 in Item 31.

5.95% Tax

To arrive at their taxable 5.95% income, Peggy and Michael subtract their total exemptions in Item 31 from their total 5.95% income after deductions in Item 23. They enter their taxable 5.95% income of $64,800 in Item 32. Based on the amount in Item 32, Peggy and Michael use the green tax table in the back of the Form 1 booklet to compute their 5.95% tax of $3,854. They enter this amount in Item 33.

12% Income

To compute interest and dividends subject to 12% tax. Peggy and Michael complete Massachusetts Schedule B. After combining their interest and dividend income from their federal return, Peggy and Michael subtract the items that are not taxed at 12%. On U.S. Form 1040, Schedule B, Peggy and Michael reported a total of $1,000 of interest and dividends. Of this amount, $300 was reported as Massachusetts bank interest in Item 11, and $400 was U.S. Savings Bond Interest which is not taxable in Massachusetts. These amounts are subtracted from total interest and dividends leaving $300 of taxable 12% interest and dividends in Item 34.

Schedule B: 12% Interest and Dividend Income

If you received any interest income other than interest from savings deposits in Massachusetts banks or if you received more than $400 in gross dividend income, complete Schedule B. Otherwise, enter your dividends of $400 or less on Form 1, Item 34. In all cases, enter your 5.95% interest on savings in Massachusetts banks on Form 1, Item 11a.

1 Total interest income (from U.S. Form 1040, lines 8a and 8b; 1040A, lines 8a and 8b, or 1040EZ, line 2)	►1		1,000 00
2 Total gross dividends (from U.S. Schedule B, Part II, line 6; or if U.S. Schedule B not filed, from U.S. Form 1040, line 9, or 1040A, line 9)	►2		—
3 Other interest and dividends not included above. (Attach statement listing sources and amounts)	►3		—
4 Total interest and dividends. *Add Items 1, 2 and 3*	4		1,000 00
5 Capital gain distributions, 100% (from U.S. Schedule B, Part II, line 7). Enter here and in Massachusetts Schedule D, Item 1b	► 5	—	
6 Interest on U.S. debt obligations (included in Item 4 above)	► 6	400 00	
7 Total interest from Massachusetts banks (from Form 1, Item 11a)	7	300 00	
8 Interest and dividends taxed directly to Mass. estates and trusts (included in Item 4 above)	► 8		
9 Other interest and dividends to be excluded, explain (attach statement) (see instructions)	► 9		
10 Allowable deductions from your trade or business (from Massachusetts Schedule C-2, Item 7)	►10		
11 Interest and dividends adjustment. *Add Items 5 through 10*	11		700 00
12 Subtotal interest and dividends. *Subtract Item 11 from Item 4*	12		300 00
13 Capital (loss) reduction (if any) $1,000 maximum, but not more than amount in Item 12 above. Use adjusted short-term (loss) first, then any adjusted long-term (loss) (from Item B on the worksheet in the instructions for Schedule D, Item 13)	13		—
14 Adjusted gross 12% interest and dividends. *Subtract Item 13 from Item 12.* Enter here and on Form 1, Item 34	14		300 00

The Murray's also had a short-term capital gain of $500 and a long-term capital gain of $2,000 from the sale of stock which they reported on their U.S. Form 1040, Schedule D. Peggy and Michael must also complete Massachusetts Schedule D to report their capital gain. After completing Schedule D, Peggy and Michael determine that, after their Massachusetts 50% long-term capital gains deduction, they have a net capital gain of $1,500 which they enter in Item 35.

Schedule D: Capital Gains and (Losses) (Attach copy of U.S. Schedule D)

		a Short-term	b Long-term
1 Enter in column a the net short-term gain or (loss) from U.S. Schedule D, line 8 — plus as a positive amount, any U.S. capital loss carryover claimed in line 6. Enter in column b the net long-term gain or (loss) from U.S. Schedule D, line 18 — plus as a positive amount, any capital loss carryover claimed in line 16. If you are not filing U.S. Schedule D, report 100% of capital gains distributions in column b. See instructions	►1	500 00	2,000 00
2 Net gains or (losses) taxed directly to Massachusetts estates and trusts and included in Item 1	►2	—	
3 *Exclude/subtract Item 2 from Item 1*	►3	500 00	2,000 00
4 Differences (if any) (attach additional statement)	►4	—	
5 Massachusetts 1992 gain or (loss). *Combine Items 3 and 4*	5	500 00	2,000 00
6 Prior years short and long-term unused (losses) for years beginning after 1981 (from worksheet in instructions, Item A)	►6	—	—
7 1992 adjusted gross short and long-term capital gains before excess deductions against trade or business income. *Combine Items 5 and 6.* If the total of columns 7a and 7b is a (loss), omit Items 8 through 12. Enter "0" on Form 1, Item 35, and enter adjusted (loss) amounts in worksheet, Item B. Enter up to $1,000 of such (loss) in Schedule B, Item 13, using any short-term (loss) first. If a gain, go to Item 8	7	500 00	2,000 00
8 Excess deductions against trade or business gain income (from Schedule C-2, Item 10)	►8	—	—
9 1992 adjusted gross short and long-term capital gains before 50% long-term deduction. *Subtract Item 8 from Item 7*	9	500 00	2,000 00
10 1992 adjusted gross combined capital gain before 50% long-term deduction. *Combine Item 9, columns a and b*	10		2,500 00
11 50% long-term deduction. If Item 10 shows a gain, enter 50% of Item 9, column b, or 50% of Item 10, whichever is smaller. If there is a long-term capital (loss) or no entry in Item 9, column b, enter "0"	11		1,000 00
12 1992 Massachusetts adjusted gross capital gain. *Subtract Item 11 from Item 10.* Enter gain here and on Form 1, Item 35	12		1,500 00
13 Available (losses) for carryover (from Item D on worksheet in instructions)	13	—	—

After adding their taxable 12% interest and dividends and their taxable capital gains, Peggy and Michael enter their total 12% income of $1,800 in Item 38. Based on the amount in Item 38, Peggy and Michael use the gray tax table in the back of the Form 1 booklet to compute their 12% tax of $213 for Item 39.

Adjustments to tax

To compute their total tax, the Murray's add Item 33 (5.95% tax) and Item 39 (12% tax) and enter the result, $4,067, in Item 41.

Michael refers to his Form W-2 to determine that the amount of his Massachusetts tax withheld is $1,744. He enters that amount in Item 51.

On their 1991 Massachusetts tax return Peggy and Michael had requested that $100 of their overpayment be applied to their 1992 estimated taxes. They enter this amount in Item 52.

Form 1
Massachusetts Resident Income Tax Return 1992

Please print in ink or type. Attach additional statements if more space is needed.

For the year January 1–December 31, 1992 or other taxable year beginning 1992, ending 19

```
001 ******* CAR-RT SORT ** CR05
MICHAEL MURRAY    012-34-5678*4
PEGGY MURRAY      901-23-4567*3
123 ANY STREET
ANYTOWN MA 02345
```

Your occupation(s)	Your Social Security number
Editor	
Spouse's occupation(s)	Spouse's Social Security number
Software Designer	
City/Town/Post Office	State / Zip

Reminder: If you are filing a joint return, failure to include both Social Security numbers will delay the processing of your return

DOR and the IRS routinely share computer tapes and audit results. Differences, other than those allowed under state law, will be identified and may result in audit or further investigation.

☑ Check box if you are using the whole-dollar method
☐ Check box if your name or address has changed since 1991
☐ Check box if you are filing both Form 1 and Form 1-NR

Filing Status

1 ☐ Single
☑ Married filing joint return (Both **must** sign return on back)
☐ Married filing separate return
(Enter full name and Social Security number of spouse)

5.95% Income

			TOTAL
2	Wages, salaries, tips and other employee compensation (from all W-2 forms)	► 2	37,000 –
3	Taxable pensions and annuities (see instructions)	► 3	
4	Alimony received (from U.S. return)	► 4	
5	Business/profession or farm income or (loss) (attach Mass. or U.S. Schedule C, C-EZ, or U.S. Schedule F)	► 5	
6	Rental, royalty and REMIC income or (loss) (attach Mass. and U.S. Schedule E)	► 6	
7	Partnership and S corporation income or (loss) (attach Mass. and U.S. Schedule E)	► 7	38,000
8	Trust income or (loss) (attach Mass. and U.S. Schedule E)	► 8	2,500
9	Unemployment compensation (from U.S. return)	► 9	
10	Winnings, fees, taxable IRA/Keogh distributions, other 5.95% income List sources and amounts	► 10	

11 Interest from Massachusetts banks. Begin by listing Mass. banks and amounts of interest

First Bank of Anytown, MA	300 00		

Total interest from Massachusetts banks	► 11a	300 –
Enter exemption: $200 if married filing jointly; otherwise enter $100	11b	200 –

	Interest after exemption. Subtract 11b from 11a **Do not enter less than "0"**	11	100 –
12	**Total 5.95% Income.** *Add Items 2 through 11*	12	77,600 –

Deductions

13	Amount **you** paid to Soc. Sec. (FICA), R.R., Medicare, U.S., Mass. Retirement. **Not more than $2,000**	► 13	2,000 –
14	Amount **spouse** paid to Soc. Sec. (FICA), R.R., Medicare, U.S., Mass. Retirement. **Not more than $2,000**	► 14	2,000 –
15	Child under age 15, or disabled dependent/spouse care expenses (from worksheet in instructions)	► 15	2,400 –
16	Dependent member of household under age 12 on December 31, 1992 **(only if not claiming Item 15).** *Enter one $600 amount.* Child's name ________ (If a part-year resident, see instructions)	► 16	

17 50% rental deduction, if applicable, $2,500 maximum per return (if married filing separate returns, see instructions). If this item is not completed, this deduction will **not** be allowed. Begin by listing your principal Mass. residences rented in 1992 only. **Do not** include separately stated charges for furnishings, utilities, parking, etc.

Your address	Landlord's name and address	Dates	Rent paid in 1992

Total qualified rent paid by you during 1992	► 17a	
Divide amount in 17a by two (÷ 2)	17b	

	Enter amount in 17b or **$2,500, whichever is smaller**	17	
18	Allowable employee business expenses (complete worksheet in instructions and attach U.S. Form 2106)	► 18	
19	Penalty on early savings withdrawal (from U.S. return)	► 19	
20	Alimony paid (from U.S. return)	► 20	
21	Alimony recipient's name and Social Security number ________		
22	**Total Deductions.** *Add Items 13 through 20*	► 22	6,400 –
23	**5.95% Income After Deductions.** *Subtract Item 22 from Item 12.* **Do not enter less than "0"** (Please carry over the amount in Item 23 to the top of the next page.)	23	71,200

Peggy had made estimated tax payments of $3,000 during 1992. This amount is entered in Item 53.

Since their total payments are greater than their total tax, the Murray's have an overpayment of $777 which they enter in Item 56. Massachusetts allows taxpayers to elect to have part or all of their overpayment applied to their estimated taxes for the following year. The Murrays request that $581 of their overpayment be applied to their 1993 estimated tax in Item 57. The balance of their overpayment — $196 — is entered in Item 58. This is the amount of their refund.

Note: Once an election is made to apply your overpayment to your 1993 estimated tax, it cannot be refunded later or applied to any additional tax you may owe for 1992. The amount applied to your 1993 estimated tax can only be claimed as a credit on you 1993 Massachusetts return.

Before filing their return, Peggy and Michael check their calculations and attach Michael's Form W-2 where indicated on the front of Form 1. They also attach all required Massachusetts and federal schedules. Both Peggy and Michael sign and date the return. They keep a copy of the return for their records. Finally, they mail the return to DOR in the special refund envelope provided in the Form 1 booklet.

	23	**5.95% Income After Deductions** (from other side). Not less than "0"			23	71,200
Exemptions	24	Personal exemptions. If single or married filing separately, enter $2,200			24	
	25	Personal exemptions. If married filing jointly, enter $4,400			25	4,400 –
	26	Number of dependents (do not include yourself or your spouse). Enter number ►26 [2] × $1,000 =				2,000 –
	27	Age 65 or over before 1993 ☐ You ☐ Spouse, if filing jointly. Enter number ►27 [ ] × $ 700 =				
	28	Medical and dental expenses (only if claiming itemized deductions on U.S. Form 1040)			►28	
	29	Blindness exemption ☐ You ☐ Spouse, if filing jointly. Enter number [ ] × $2,200 =			►29	
	30	Adoption agency fee exemption (see instructions)			►30	
	31	**Total Exemptions.** *Add Items 24 through 30.* Enter total, unless you were a part-year resident, a nonresident or a beneficiary of a Mass. estate or trust. If a part-year Mass. resident, enter days as a resident [ ] ÷ 365 = ____ × (the total of Items 24 through 30)			►31	6,400 –
5.95% Tax	32	**Taxable 5.95% Income.** *Subtract Item 31 from Item 23.* Do not enter less than "0"			32	64,800 –
	33	**Tax From Table 1** (green table). *If Item 32 is more than $80,000, multiply by .0595*			33	3,854 –
12% Income	34	Interest and dividends (attach Mass. Schedule B, if applicable)	►34	300 –		
	35	Capital gain (attach Mass. and U.S. Schedule D). If (loss) enter "0"	►35	1,500 –		
	36	Subtotal 12% income. *Add Items 34 and 35*	36	1,800 –		
	37	Exemptions from 12% income, if any (only if single, or if married filing jointly). *If Item 23 is larger than Item 31, enter "0." If Item 23 is smaller than Item 31, subtract Item 23 from Item 31*	37			
12% Tax	38	**Taxable 12% Income.** *Subtract Item 37 from Item 36.* Not less than "0"	38	1,800 –		
	39	**Tax From Table 2** (gray table). *If Item 38 is more than $80,000, multiply by .12*			39	,213 –
Adjustments to Tax		You may qualify for No Tax Status or the Limited Income Credit if your income is $14,000 or less if single, or $21,000 or less if married filing jointly. Complete Schedule NTS-L to see if you qualify				
	40	No Tax Status (attach Mass. Schedule NTS-L). If Mass. Adjusted Gross Income is $8,000 or less if single, or $12,000 or less if married filing jointly, enter amount of Mass. AGI	40			
	41	**Tax.** *Add Items 33 & 39.* If No Tax Status, check box and enter "0" ☐			41	4,067 –
	42	Limited Income Credit (attach Mass. Schedule NTS-L)			►42	
	43	Credits: Income tax paid to another state or jurisdiction ☐ (attach Mass. Schedule F and copies of returns); Energy ☐ (attach Mass. Schedule EC); Lead Paint ☐ (attach Mass. Schedule LP and CLP); Universal Health Care Credit ☐ (attach Mass. Schedule UHC)			►43	
	44	Total credits. *Add Items 42 and 43*			44	
	45	**Tax After Credits.** *Subtract Item 44 from Item 41.* Not less than "0"			45	4,067 –
	46	Voluntary contribution to Mass. Election Campaign Fund: ☐ $1 You ☐ $1 Spouse, if filing jointly			►46	
	47	Voluntary contribution to Organ Transplant Fund			►47	
	48	Voluntary contribution for Endangered Wildlife Conservation			►48	
	49	Voluntary contribution to Massachusetts AIDS Fund			►49	
	50	**Tax After Credits Plus Voluntary Contributions.** *Add Items 45 through 49*			50	4,067 –
	51	Massachusetts income tax withheld (attach all Mass. W-2, W-2G & 1099R forms)	►51	1,744 –		
	52	1991 overpayment applied to your 1992 estimated tax (do not enter 1991 refund)	►52	100 –		
	53	1992 Massachusetts estimated tax payments (do not include amount in Item 52)	►53	3,000 –		
	54	Payments made with extension (attach Mass. Form M-4868)	►54			
	55	**Tax Payments.** *Add Items 51, 52, 53 and 54*			55	4,844 –
Your Refund	56	Overpayment. *If Item 50 is smaller than Item 55, subtract Item 50 from Item 55*			►56	777 –
	57	Amount of overpayment you want applied to your 1993 Mass. Estimated Tax	►57	581 –		
	58	**Amount of Your Refund.** *Subtract Item 57 from Item 56*			►58	96 –
You Owe	59	**Amount of Tax You Owe.** *Subtract Item 55 from Item 50 and pay in full with this return. Write Social Security Number on lower left corner of check and make payable to Commonwealth of Massachusetts.* Add to the total in Item 59, if applicable: Interest $ ____ , Penalty $ ____ , M-2210 amount $ ____ EX ☐ (attach Form M-2210).			►59	

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct and complete. Declaration of preparer (other than taxpayer) is based on all information of which he/she has knowledge.

Your signature: Michael Murray	Date: 3/3/93	Paid preparer's signature & Social Security No ►60	Date
Spouse's signature (if filing jointly): Peggy Murray	Date: 3/3/93	Employer identification number	☐ Check if self-employed
Your daytime phone number: (617) 727-4393	Spouse's daytime phone number: (617) 727-0117	Firm name (or yours, if self-employed) and address	

If making payment, mail to Mass. DOR, P.O. Box 7003, Boston, MA 02204. Otherwise, mail to Mass. DOR, P.O. Box 7000, Boston, MA 02204

Warning: Willful tax evasion — including underreporting income, overstating deductions or exemptions or failing to file and otherwise evade — is a felony. Conviction can result in a jail term of up to five years and/or a fine of up to $100,000.

Amended Returns

What Should I Do If I Make a Mistake or Leave Something Out on My Return?

If after filing your income tax return you receive an additional statement of income such as a 1099 or a W-2 or discover that an error was made, do not submit a second tax return. If corrections are necessary, you must file Form 33X, Massachusetts Amended Income Tax Return. This form is available at any Department of Revenue location, or you may have one mailed to you by calling (617) 727-4545 or in-state toll-free at 1-800-392-6089.

When Should I File Form 33X?

You should file Form 33X if you fall into any of the following categories:

- you realize after filing your Form 1, ABC or 1-NR that you made an error or omission of any kind such as failing to claim your proper deductions or exemptions or forgetting to include your interest income;
- you receive an additional Form 1099 or W-2 which reflects income not reported on your original return; or
- your return is adjusted or audited by the Internal Revenue Service (IRS), resulting in a change in the income you reported on your original return for Massachusetts purposes.

NOTE: The IRS shares the results of audits with the Massachusetts Department of Revenue (DOR). You must report changes made by the IRS to DOR within one (1) year of the time a final determination is reached by the IRS.

Is Form 33X the Only Form I Have to File to Change My Original Return?

Generally, if you have filed and later discover that you must amend your individual income tax return to make an additional payment or to request a refund, you need only file Form 33X. If, however, you are requesting a refund or a reduction in the tax due **and** have previously received a bill or other adjustment to your tax return from DOR, **do not** use Form 33X. You must file an Application for Abatement, Form CA-6, to request a refund or a reduction in tax when you have been billed, or your return has been previously adjusted by DOR. Form CA-6 may be obtained by visiting any DOR location or calling our Taxpayer Assistance Bureau at (617) 727-4545 or in-state toll-free at 1-800-392-6089. See the discussion regarding bills and notices in the section on "Administrative Information."

You must attach revised schedules for any item calculated on schedules which you are changing on your amended return. For example, if you are changing the amount of income you reported from your business or profession, you must attach a new Schedule C to your Form 33X. If you are reporting a federal audit, you must attach the final audit results. The IRS will often provide this information to you on an IRS Revenue Agent's Report or on a Form CP-2000.

Is There a Time Limit on When I Can File a Form 33X?

Yes. You are generally only allowed to request a refund of taxes paid if one of these conditions is met:

1. The request is made within three years of the original due date of the return without regard for any extensions which were granted for that return. For example, a 1992 tax return is due on April 15, 1993, so a reduction in the tax paid on that return may be requested up until (but must be received by) April 15, 1996 unless a later date can be reached by applying the second condition below.
2. The request is made within one year from the date you receive the final determination of an IRS audit which results in a change to Massachusetts income. For example, the IRS audits a 1992 return and makes a final determination on January 22, 1996 that the taxpayer overstated income. The taxpayer has until January 22, 1997 to request a refund from Massachusetts based on the audit.

If, however, you are reporting an additional tax due, there is no time limit for filing the Form 33X. You may be required to pay interest and penalties if you file Form 33X after the due date of the return.

Will I Owe Any Interest or Penalties?

You will be required to pay interest and penalties if your amended return fits into the categories explained below.

Interest: You are making a tax payment after the due date of the original return.

Federal Change Penalty: This penalty applies if you fail to file Form 33X within one year of a final determination of the federal audit which increased your Massachusetts taxable income. The penalty is 10% of the additional tax or $100, whichever is less.

How Do I Complete Form 33X?

On Form 33X, write your income, deductions and exemptions as you originally reported them on your Form 1, ABC or 1-NR; the changes you are making; and the corrected amounts. Then, figure the tax on the corrected amount and the amount you owe, or the amount of your refund. If you owe a tax, you must pay the full amount with Form 33X. The tax owed will not be subtracted from any refund you have not yet received or from any amount you had credited to your 1993 estimated tax.

After you finish your Form 33X, check it to be sure it shows all the information requested. Do not forget to show the year of your original return and the explanation for all changes made. Be sure to sign your return and attach any forms or schedules needed to explain your changes.

Where Should I Mail the Completed Form 33X and Payment?

If making a **Federal Change Payment,** mail to:

Mass. DOR
P.O. Box 7020
Boston, MA 02204

For **All Other Payments,** mail to:

Mass. DOR
P.O. Box 7011
Boston, MA 02204

If **Requesting a Refund,** mail to:

Mass. DOR
P.O. Box 7031
Boston, MA 02204

Example of a Completed Form 33X

This example of a completed Form 33X is based on the fictitious couple Peggy and Michael Murray who previously filed a Form 1.

After completing and filing their Form 1, Massachusetts Individual Income Tax Return, the Murrays discover that they had failed to report all of their income. Peggy had won $1,500 in the Massachusetts state lottery.

First, Peggy and Michael complete the registration and filing status section of Form 33X. Next, they enter in column A the amounts from their Form 1. In column B they enter the items that have changed. In column C, they enter the corrected amounts.

FORM **33X** (Rev. 9/92) **Massachusetts Amended Individual Income Tax Return** **19** 92

FOR CALENDAR YEAR 19 ___ OR TAXABLE YEAR BEGINNING ______________, 19 ___, AND ENDING ______________, 19 ___

Your first name and initial	Last name	Your social security no.
Michael	Murray	012 | 34 | 5678
Spouse's first name and initial	Last name	Spouse's social security no.
Peggy	Murray	901 | 23 | 4567
Present street address (& apartment number): 123 Any St.		
City/Town/P.O. box number: Anytown	State: MA	ZIP code: 02345

☐ Check box if address changed since filing original return.

Filing Status

Form 33X must be used if, after filing your Massachusetts income tax return, you discover one or more errors or omissions. This form must also be used to report the results of an IRS audit or adjustment. **DOR and the IRS routinely share computer tapes and audit results. Differences, other than those allowed under state law, will be identified and may result in audit or further investigation.** Time limits for filing Form 33X are explained on page 1 **CAUTION:** If you have received a bill or other adjustment notices about your state income tax liability, do not use this form to request a refund Use Form CA-6, Application for Abatement.

1 Were you a Mass. resident for the full taxable year?
☑ Yes ☐ No (If part-year resident, give dates below.)
Resident from: ________ to: ________
Nonresident from: ________ to: ________
If amending to change resident status, see instructions.

2 Filing status claimed:
On original return ☐ Single ☑ Married filing jointly ☐ Married filing separately
On this return ☐ Single ☑ Married filing jointly ☐ Married filing separately

3 **Are you amending your return as a result of a federal change?** ☐ Yes ☑ No
If yes, attach copy of federal audit results.

4 Do you already owe and have you been billed for additional state income tax for the year you are amending? If yes, see instructions. ☐ Yes ☑ No

Section 1—1992 & 1990—5.95% Income 1991—6.25% Income Pre-1989—5% Income

Complete Section 1 ONLY if amending a 1990–1992 return or a return prior to 1989. If amending a return prior to 1989, use your 5% income amounts. NOTE: Amounts entered in column C of Items 7 and 9 cannot be less than zero.		**A. Amount on original return**		**B. Net change increase or (decrease) explain on Page 2**		**C. Corrected amount**	
5 Total 6.25%, 5.95% or 5% income. (See instructions)	5	77,600	–	1,500	–	79,100	–
6 Total deductions. (If amending rental deduction, see instructions)	6	6,400	–			6,400	–
7 Income after deductions. *Subtract Item 6 from Item 5*	7	71,200	–	1,500	–	72,700	–
8 Total exemptions	8	6,400	–			6,400	–
9 Taxable 6.25%, 5.95% or 5% income. *Subtract Item 8 from Item 7*	9	64,800	–	1,500	–	66,300	–
10 Tax on 6.25%, 5.95% or 5% income. *Multiply Item 9 by .0625, .0595 or .05, whichever applies.* (See instructions)	10	3,854	–	91	–	3,945	–

Section 2—5.375% Income 1989 Returns only

Complete Section 2 and 3 ONLY if amending a 1989 return. NOTE: Amounts entered in column C of Items 14, 16 and 22 cannot be less than zero.		**A. Amount on original return**		**B. Net change increase or (decrease) explain on Page 2**		**C. Corrected amount**	
11 Total 5.375% income (See instructions)	11						
12 5% (loss)	12						
13 Total deductions (if amending rental deduction, see instructions)	13						
14 *Combine Items 11 and 12 and subtract Item 13 from the result*	14						
15 Total exemptions	15						
16 Taxable 5.375% income. *Subtract Item 15 from Item 14*	16						
17 Tax on 5.375% income. *Multiply Item 16 by .05375.*	17						

Section 3—5% Income 1989 Returns only

18 Total 5% income (See instructions)	18						
19 5.375% (loss)	19						
20 Excess deductions	20						
21 Excess exemptions	21						
22 Taxable 5% income. *Combine Items 18 and 19 and subtract Items 20 and 21 from the result*	22						
23 Tax on 5% income. *Multiply Item 22 x .05.*	23						

Section 4—12% Income Pre-1990—10% Income

(To be completed by ALL taxpayers filing Form 33X.) Note: Column C of Items 24 and 26 cannot be less than zero.

24 Total 12% or 10% income (See instructions)	24	1,800				1,800	–
25 Excess exemptions	25	–				–	
26 Taxable 12% or 10% income. *Subtract Item 25 from Item 24*	26	1,800				1,800	–
27 Tax on 12% or 10% income. *Multiply Item 26 x .12 or .10, whichever applies.* (See instructions)	27	213				213	–
28 Tax. *Add Items 10 end 27. If amending a 1989 return, add Items 17, 23 and 27.* (If claiming No Tax Status, check box ☐ and enter "0." Attach Massachusetts Schedule NTS-L)	28	4,067		91	–	4,158	–

BE SURE TO COMPLETE THE BACK OF THIS FORM.

The Murrays explain in Item 46 the reason for the change. Both Peggy and Michael sign and date the form. They attach a check made payable to the Commonwealth of Massachusetts for the additional tax of $91. Since the Murrays are filing their amended return before April 15th, they will not owe interest on the additional tax due. They make a copy of the amended return for their records. Finally they mail the completed Form 33X with payment to the address for payments indicated on the bottom of Form 33X.

		A. Amount on original return	B. Net change increase or (decrease) explain below		C. Corrected amount	
ADJUSTMENTS TO TAX	29 Credits (☐ Limited Income Credit, ☐ Schedule F, ☐ Energy Credit, ☐ Lead Paint Credit, ☐ Excess Revenue Credit, ☐ Universal Health Care Credit) (Attach Schedule) Not less than "0." 29	—			—	
	30 Tax after credits. *Subtract Item 29 from Item 28* (30)	4,067	91	-	4,158	-
	31 Voluntary contributions (See instructions) 31	—				
	32 Tax after credits plus voluntary contributions. *Add Items 30 and 31.* 32	4,067	91	-	4,158	—
PAYMENTS	33 Massachusetts income tax withheld (33)	1,744			1,744	-
	34 Massachusetts estimated tax payments (34)	3,100			3,100	-
	35 Payments made with extension (35)	—				
	36 Amount paid with your original return (not including interest and penalties) 36				0	
	37 Other payments for this tax year made after filing the original return (37)				0	
	38 Total payments. *Add Items 33 through 37 in column C* 38				4,844	—
YOUR REFUND	39 Overpayment, if any, as shown or as adjusted on original return 39				777	—
	40 Net payments. *Subtract Item 39 from Item 38* 40				4,067	—
	41 AMOUNT OF YOUR REFUND. If Item 40 is greater than Item 32, column C, enter difference 41					
YOU OWE	42 ADDITIONAL TAX DUE. If Item 40 is less than Item 32, column C, enter difference 42				91	—
	43 Interest. (If filed after the due date of the return, see instructions.) 43				—	
	44 Penalty ☐ $ ______ Federal change ☐ $ ______ Underpayment of estimated tax (attach Form M-2210) 44				—	
	45 AMOUNT YOU OWE. *Add Items 42, 43 and 44.* **PLEASE PAY IN FULL WITH THIS RETURN** 45				91	—

EXPLANATION OF CHANGES

Item 46 **Explanation of Changes** — Enter the item number for which you are reporting a change and give the reason for each change. If you need more space than is provided below, attach an additional sheet of paper. Also, attach all additional information, supporting forms and schedules. If reporting a federal change, attach federal audit.

Item 10. Winnings, Fees, taxable IRA/Keogh distributions, other 5.95% income
Increase of $1,500 due to lottery winnings not included on original return.

REFUND APPLICATION

Item 47 **Refund Application** (Substitute application for abatement.) — For refund requests as shown in Item 41 on this amended return, and filed after the due date of the original return, the taxpayer named herein makes application for abatement of the tax assessed for the period stated pursuant to the applicable Massachusetts General Laws, Chapters 62, 121A and 138. Consent is hereby given, pursuant to Chapter 58A, section 6, for the Commissioner of Revenue to act upon this amended return after six months from the date of filing. This consent is provided to protect my rights where processing of my refund is delayed for any reason. My consent may be withdrawn at any time. If I refuse consent by striking out this section, or by withdrawing my consent, the refund will be denied (1) at the expiration of six months from the date of filing or (2) at the date consent is withdrawn, whichever is later.

DECLARATION

Under penalties of perjury, I declare that I have examined this form, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct and complete. Declaration of preparer (other than taxpayer) is based on all information of which he/she has knowledge.

Michael Murray — 4/10/93
Your signature — Date — Paid preparer's signature — Date

Peggy Murray
Spouse's signature (If filing jointly, BOTH must sign, even if only one had income.) — Address — ZIP code — E.I. or social security number

If making a **FEDERAL CHANGE PAYMENT**, mail to:	For **ALL OTHER PAYMENTS**, mail to:	If requesting a **REFUND**, mail to:
Mass. Department of Revenue P.O. Box 7020 Boston, MA 02204	Mass. Department of Revenue P.O. Box 7011 Boston, MA 02204	Mass. Department of Revenue P.O. Box 7031 Boston, MA 02204

Administrative Information

Where Can I Get Help in Figuring Out My Income Tax Situation?

DOR's Taxpayer Assistance Bureau (TPA) can assist taxpayers with all aspects of complying with the Commonwealth's personal income tax laws, including:

- supplying forms;
- determining which forms and schedules to use;
- locating a refund that is overdue; and
- explaining estimated tax requirements.

For a full list of TPA telephone numbers, please see the directory on the back cover of this guide. Please see "Where Can I Get Help and Forms?" on the inside back cover for a complete list of other resources available to taxpayers who have particularly complicated tax issues.

My Tax Situation Is Very Complicated. How Can I Get Guidance on My Responsibilities from the Department?

DOR administers the laws governing all types of state taxes strictly according to the Massachusetts General Laws. The Department's *MASSTAX Guide*, produced in conjunction with West Publishing Company, is an excellent source for researching any state tax issue. The *MASSTAX Guide,* which is printed in five volumes, is updated quarterly and contains DOR policy statements as well as other legal developments and law changes. Along with the volumes devoted to specific taxes, such as personal income, sales and use, etc., the *MASSTAX Guide* has an administrative volume that describes in more detail the enforcement and appeals procedures that are outlined in this guide. The *MASSTAX Guide* is available at the State Library in Boston as well as at libraries throughout the Commonwealth. Sets of the *MASSTAX Guide* may be purchased through West Publishing by calling 1-800-328-9352.

DOR's Rulings and Regulations Bureau issues public written statements that explain the Commonwealth's tax laws in detail. These documents are useful tools for taxpayers and tax practitioners who want to know DOR's official stand on an issue.

Unlike oral advice from the Department, which is advisory only, DOR's public written statements listed below are official statements of DOR policy.

Many complicated questions commonly raised by taxpayers are answered in one of the following DOR public written statements:

Regulations are DOR's official interpretations of Massachusetts tax statutes. DOR issues regulations after public hearings in order to communicate to taxpayers and their representatives its position on a particular issue or specific provisions of the law. Industry groups, tax professionals and private individuals are encouraged to take part in the regulatory process.

Technical Information Releases (TIRs) explain changes in federal or Massachusetts tax laws. TIRs also communicate DOR's response to those law changes or to court decisions affecting federal or state tax laws or administration.

DOR Directives are concise statements of position, designed to clarify issues that previously may have seemed ambiguous.

Letter Rulings are responses to very specific technical questions that are not already covered in other public written statements. To get guidance on submitting a request for a letter ruling, please call the Rulings and Regulations Bureau at (617) 727-8240. (Because a ruling is based on one taxpayer's specific facts and circumstances, DOR's response is binding only to the taxpayer making the request, although others may consider rulings as nonbinding indications of the Department's position at the time the rulings are issued.)

All DOR public written statements are published in the *MASSTAX Guide*. In addition, if you would like a copy of any Regulation, TIR, Directive or Letter Ruling, you can call the Rulings and Regulations Bureau at (617) 727-8240, and it will be sent to you.

DOR also publishes a quarterly *Taxpayer Advisory Bulletin (TAB)* designed to keep all tax practitioners abreast of the most recent developments in Massachusetts tax law as well as at the Department itself. Copies of *TAB* are also available at local libraries. If your local library does not receive *TAB*, ask your librarian to order it by calling DOR's Publications Office at (617) 727-1322; copies will be sent free of charge.

I Need Help Resolving an Ongoing Problem with DOR. Is There Someone Who Can Help Me?

Yes. If you have a problem that began before the current tax year and has not been settled after at least two contacts with the Department, call or write DOR's Problem Resolution Office (PRO). (More recent problems should be handled either through the bureau involved or through TPA.)

Among the types of problems PRO can handle are: payments that have not been credited to a taxpayer's account, even after proof of payment; bills that have been issued in error; or miscommunication between bureaus within DOR that means your problem has remained unsolved.

Once you contact PRO and your case is accepted, you will receive a letter of acknowledgment. A staff person will be assigned to your case to handle all dealings between you and the Department until your problem is resolved.

If you need special help resolving a problem, please call PRO at (617) 727-5880 or write to the office at P.O. Box 7047, Boston, MA 02204.

What If I Want to Complain About a DOR Employee's Conduct?

If you feel that an employee was rude or unprofessional, you should ask to speak to a supervisor about the incident. You also can contact the Commissioner's Office directly at (617) 727-4201 to lodge a complaint.

If you feel that an employee may have behaved in an unethical or illegal manner, you should contact DOR's Office of Internal Affairs at (617) 727-8662. Internal Affairs is responsible for ensuring the highest standards of integrity throughout the Department and conducts investigations of employees who are suspected of wrongdoing. To protect the integrity of DOR, any suspicion of wrongdoing should be referred immediately to Internal Affairs.

What If I Need More Time to File My Income Tax Return?

If an individual taxpayer is unable to meet the income tax filing deadline, DOR will grant an automatic six-month filing extension. To receive an extension — and for it to be valid — you must file Form M-4868 and have paid at least 80 percent of your total tax liability for the year by April 15. Taxpayers who do not expect to owe a tax may substitute a copy of U.S. Form 4868 in lieu of the Massachusetts form. Taxpayers should know, however, that by law interest will accrue on any tax liability that is not paid by the original deadline.

For more information and to obtain forms, please call TPA at (617) 727-4545.

What If I Haven't Filed a Return or Paid a Tax on Time?

A taxpayer who fails to file a required tax return or fails to pay a tax bill due the Commonwealth faces serious financial sanctions. It is important to note that there is no statute of limitations if a return has not been filed; in other words, you can always be liable for the tax, plus interest and penalties.

If you discover that you have not filed a return for which you were responsible, you should contact the Department's Taxpayer Assistance Bureau immediately at (617) 727-4545 or toll-free in Massachusetts at 1-800-392-6089. Depending on the type of return, how overdue it is and the liability involved, TPA can advise you how to settle your account with the Commonwealth most quickly — before interest and penalty charges mount further.

Under Massachusetts state law, there are penalties that are automatically applied to late payments or returns. Most often a late return will generate a late file penalty of 1 percent per month on the unpaid tax; an unpaid balance will generate a ½ percent late pay penalty per month. Late return penalties and unpaid balance penalties are each capped at 25 percent of the unpaid tax. Failure to respond to a DOR notice may, in some cases, result in a doubling of the assessment.

What Is the Sequence of Steps DOR Can Take to Collect a Tax That Is Due?

Once a taxpayer receives a Notice of Assessment, he or she has 30 days to settle the debt before a Notice of Demand is automatically issued. If no payment is received within 10 days after a Demand is issued, the account is forwarded to the Collections Bureau for further action; if no payment is received within 30 days after a Demand is issued, DOR has the authority to send the account to a collection agency.

As a first step, the Collections Bureau generally will try to contact a taxpayer either by telephone or letter. This is another opportunity for a taxpayer to settle his or her liability in full. In certain limited circumstances, the Department may let a taxpayer settle a liability through a short-term payment agreement that allows installment payments.

The Collections Bureau can file a notice of tax lien on a taxpayer's property, or it can levy an asset, such as a bank account or accounts receivable. In either case, DOR will inform taxpayers that a notice of lien has been recorded against their property or that a levy has been served. (A tax lien on a property impedes the sale or transfer of the property until the debt is settled and makes it virtually impossible for the buyer to obtain a mortgage; a levy withdraws money from a taxpayer's assets — for example, from a bank account or from wages or salary — to satisfy the debt.)

In some cases, usually after all else fails, the Collections Bureau will be forced to seize an asset, like a car or a business, in order to satisfy the debt. Most taxpayers will receive a certified letter warning them that their property will be seized if a settlement is not reached within 10 days. Sometimes, DOR will not send a warning letter if there is a possibility that the taxpayer may hide or transfer an asset to avoid seizure.

Seizures are generally a matter of public record, and DOR routinely publicizes them.

How Far Back Can an Audit Go?

DOR has the legal authority to audit returns for up to three years after they are filed. This period is known as the "open years." Additionally, returns may be audited for up to six years for understating by more than 25 percent the gross income that should have been reported on the return. However, if a taxpayer has failed to file a return or has filed a false or fraudulent return, there is no time limit on how far back DOR can go to discover a taxpayer's true tax liability.

If there is reason to believe that a taxpayer has filed an incorrect or insufficient return — for example, not submitting all necessary schedules — the taxpayer may be required to submit proof to support the information on the original return or to file an amended return. For their own protection, taxpayers should keep records for as long as possible or for at least six years; the lack of records may make proving your tax liability or verifying a payment difficult.

What Happens If I Am Assessed Back Taxes After an Audit?

If a tax is determined to be due, a Notice of Intention to Assess (NIA) will be sent to you. Taxpayers who do not dispute the findings of an audit are encouraged to pay at this point to avoid any further penalties or interest. Taxpayers who do dispute an audit finding may still want to pay in order to avoid additional penalties and interest if they ultimately lose their appeals.

At the end of 30 days, a taxpayer who has not paid at the NIA stage will be sent a Notice of Assessment indicating the amount due. (If a taxpayer has paid in full, the Notice of Assessment will show a zero balance due.) If the bill is not paid within 30 days, the account will be forwarded to the Collections Bureau.

Can I Disagree with an Audit Finding?

Yes. If you want to appeal an audit finding, there are several stages at which you can request a review of your case. The first place to start the appeals process is with an audit conference that you must request in writing within 30 days after the NIA is issued.

Can I Appeal the Results of an Audit Conference Before a Bill Is Issued?

Yes. You can appeal the results of the audit conference to DOR's Appeal and Review Bureau before the bill is issued. The Appeal and Review Bureau is a totally separate office within DOR that holds hearings on appeals. Taxpayers must submit a complete and accurate written statement of the facts and the legal questions involved.

Appeal and Review ordinarily will hear all cases except those that would require it to strike down written policies of the Department, reverse a Massachusetts court decision or find a tax law unconstitutional. Taxpayers who fail to raise significant new arguments or issues relevant to their case also will be refused a hearing. The DOR office that made the audit determination will inform you of the procedure for requesting a hearing at Appeal and Review. Hearings are granted at the discretion of the Appeal and Review Bureau.

If, after reexamining your case at an audit conference and at Appeal and Review, DOR still believes that an additional tax is owed, you will receive the actual Notice of Assessment. You also will receive a letter of determination from Appeal and Review explaining the basis for upholding the assessment. Once this bill is issued, the Abatement Bureau will handle the next stage of your appeal.

I Just Received a Notice of Assessment That I Don't Agree With. How Do I Appeal It?

Notices of Assessment, or bills, are sent to taxpayers either as the result of an audit or as the result of DOR's routine examination of a taxpayer's records. If there has not been an audit, an assessment of an amount due may be made as the result of an arithmetic, clerical or other obvious error apparent on the return. If this is the case, DOR automatically will issue a Notice of Assessment to the taxpayer.

If a taxpayer has questions about a bill, he or she should call DOR's Taxpayer Assistance Bureau at (617) 727-4545 or toll-free in Massachusetts at 1-800-392-6089.

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Where Can I Get Help and Forms?

If you have questions about completing your tax form, please contact us for free help. You can visit any of the offices listed on the back cover. These offices are open between 8:45 a.m. and 5:00 p.m. You can also call us in-state, toll-free, at 1-800-392-6089.

If you need tax forms, you can get them at local post offices, libraries, larger city or town halls and at all locations listed on the back cover. State tax forms are also available at the Boston IRS Office (J.F.K. Building) and at the 14 IRS District Offices across the state. For federal forms, call 1-800-829-3676. You may also obtain forms by phone or mail order. Call (617) 727-4392 or write to the Massachusetts Department of Revenue, Forms Supply, 100 Cambridge Street, Boston, MA 02204-7033.

☛ Vision-impaired taxpayers are welcome to make an appointment at any DOR Taxpayer Assistance location to receive assistance in preparing their tax form.

☛ Hearing-impaired taxpayers are welcome to call our Telephone Device for the Deaf (TTD) at (617) 727-2385 for assistance.

Resources

In addition to the instruction booklet that comes with the Commonwealth's major tax forms, the Department of Revenue publishes a number of useful publications on various state tax issues for taxpayers. Unless otherwise indicated, these publications are available through DOR's Taxpayer Assistance Bureau (TPA).

MASSTAX Guide contains five volumes covering all state taxes and DOR administrative procedures; it is available for purchase through West Publishing Company or for reference at many law libraries and the State Library located in Boston.

A Guide to the Department of Revenue: Your Taxpayer Bill of Rights describes the services available to taxpayers through DOR, details the protections and benefits contained in the Massachusetts Taxpayer Bill of Rights and spells out the rights and obligations of both taxpayers and the Department during the audit, collection, abatement and appeals processes.

A Guide to Withholding of Taxes on Wages explains which forms employees must file with their employers to ensure that the proper amount of tax is being withheld as well as how employers go about collecting and remitting withholding.

Should You Be Paying Estimated Taxes? outlines filing and payment responsibilities for taxpayers who do not have state taxes automatically withheld each pay period.

A Guide to Sales and Use Tax includes information on what is taxable, sample forms and a tear-out tax collection schedule for vendors.

Should You Be Paying Use Tax? details the responsibilities of individuals and businesses for paying use tax on purchases made outside of the Commonwealth.

A Guide to Estate Taxes covers all aspects of the Commonwealth's estate tax laws, including definitions, rates and differences with federal law; it is available from the Estate Tax Bureau and TPA.

Small Business Packet contains registration materials, tax information, sample forms and information from other state agencies; it is available as part of TPA's Small Business Workshop.

Taxpayer Advisory Bulletin is published quarterly with updates on legislative, legal and Departmental decisions and is available at most libraries or through DOR's Publications Office.

DOR Regulations, Technical Information Releases (TIRs), Directives and Letter Rulings are prepared on general tax issues as well as specific taxpayer inquiries and are published in the *MASSTAX Guide* or are available from the Rulings and Regulations Bureau.

DOR Taxpayer Assistance Locations

100 Cambridge Street
Boston 02204
(617) 727-4545

218 S. Main Street
Fall River 02721
(508) 678-2844, ext. 200

333 East Street
Pittsfield 01201
(413) 499-2206

436 Dwight Street
Springfield 01103
(413) 784-1000

75A Grove Street
Worcester 01605
(508) 792-7300

DOR Locations Throughout the Country

Atlanta
999 Peachtree St., N.E.
Suite 1640
Atlanta, GA 30309
(404) 874-2922

Chicago
150 N. Michigan Ave.
Suite 2035
Chicago, IL 60601
(312) 899-9040

Houston
1201 Louisiana St.
Suite 2548
Houston, TX 77002
(713) 650-0390

Los Angeles
2500 Wilshire Blvd.
Suite 700
Los Angeles, CA 90057
(213) 384-5148

New Jersey
8 Campus Dr., 1st Floor
Parsippany, NJ 07054
(201) 984-3700

New York
1212 Ave. of the Americas,
6th Floor
New York, NY 10036
(212) 768-2750

Pittsburgh
717 Grant St., 9th Floor
Pittsburgh, PA 15219
(412) 281-2776

From the Commissioner

Dear Taxpayer:

Two of the Administration's highest priorities have been restoration of fiscal stability to the Commonwealth and the revitalization of the Massachusetts economy. A great deal has been accomplished toward these ends, including implementation of a number of important changes to the Commonwealth's tax laws. These changes are reflected in this year's tax forms, including a reduction in the tax rate on earned income, such as wages and salaries, from 6.25 percent to 5.95 percent; the phaseout of the current estate tax; and a lowering of the interest rate paid and charged by the Department on overpayments and underpayments of state taxes.

Restoration of the Commonwealth's fiscal stability has meant reduced funding at many state agencies, including the Department of Revenue. To meet our cost-cutting objectives, we have closed six district tax offices and have eliminated our return preparation services. In order to provide adequate services with fewer resources, the Department has made compliance simpler by improving many of our forms and by streamlining procedures. This year, for example, the Department is instituting an automatic six-month extension program for individual income tax filers, replacing the four-month automatic extension offered previously. By eliminating the need to request an additional two-month extension, the new process offers more convenience for many Massachusetts taxpayers.

This guide is designed to help taxpayers with complex filing situations by expanding upon the instructions available in our income tax form booklets. It addresses issues such as filing part-year resident returns, making estimated tax payments and filing amended returns. As in previous years, the guide includes a listing of personal income tax law changes, an expanded discussion of the differences between federal and Massachusetts taxable income and important information on the Department's administrative procedures. We have also included an example of a completed Massachusetts Resident Income Tax Return, with step-by-step explanations of how each section of the return was completed.

We hope you find this guide useful during the upcoming filing season.

Sincerely,

Mitchell Adams
Commissioner of Revenue

January 1993